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MINUTES OF EVIDENCE

TAKEN BEFORE THE

SELECT COMMITTEE

ON THE

AFFAIRS

OF

THE EAST INDIA COMPANY;

AND ALSO AN

APPENDIX AND INDEX.

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IV.

Judicial.

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16 *August* 1832.

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IV.—*Judicial.*

EXTRACT from the REPORT of the COMMITTEE.

IN the Judicial Department such Evidence, oral and documentary, has been taken, as seemed best calculated to exhibit the actual state of the Judicial Administration in India, during the period which has elapsed since the last renewal of the East India Charter.

Shortly after the passing of the Act of the 53 Geo. 3, c. 155, important alterations were introduced into the Judicial Code of the Madras Presidency. The Regulations of the other Presidencies have also been modified at various times, in several particulars; and in Bengal changes of great extent have succeeded each other at recent periods.

The Inquiries of Your Committee have been directed to the nature and extent of those several alterations, the success that has attended such as have been for some time in operation, and the anticipations formed of the probable effect of the more recent measures.

In the prosecution of this branch of their Inquiries, much valuable information has been received as to the nature and causes of the delays in the administration of Civil and Criminal Judicature; the forms of proceeding in the Indian Courts; the duties and qualifications of the Vakeels or Native Bar; the mode of taking Evidence; the efficacy of Judicial Oaths, and the credibility of Native Testimony; and the Costs attending the prosecution and defence of Civil Suits. Inquiry was also made into the efficiency of the Criminal Courts, and the duties and qualifications of the Mahomedan Law Officers, whose opinions, or verdicts, were required to be taken in all trials before the Courts of Circuit.

Your Committee directed their particular attention to the question of what alterations it might be necessary to introduce into the system of Judicial Administration if Europeans should be permitted to resort freely to India, and to settle themselves in our Territorial Possessions. Connected with this subject was that of the preparation of a Code of Laws defining rights more distinctly than has yet been done, and laying down principles which should govern our Judicial Tribunals in adjudicating on questions of tenure, inheritance, succession, and contract, and the expediency of establishing Legislative Councils abroad, or the best means of otherwise providing for the preparation of local enactments calculated to ensure the pure and speedy administration of justice.

The System of Education employed for preparing the Civil Servants of the Company to discharge the various and high duties which devolve upon them, and more especially those of a judicial nature, has been inquired into. The Investigation embraced the studies at the East India College at Haileybury, and particularly that portion of them which was dedicated to the acquisition of the principles of general and particular Law; and it was extended to the System of Instruction prescribed to Writers on their arrival in India, and the course of their employment and promotion in the several branches of Indian administration.

The practicability and expediency of employing Natives to a greater extent than has hitherto been the practice in the Administration of Justice,

both Civil and Criminal, being a subject of peculiar interest and importance, minute inquiries were made into the extent to which Hindoos and Mahomedans had heretofore been engaged in those functions; the education by which they had been prepared for their duties, and the effect of national habits and feelings on their moral character; the nature of the institution denominated "Punchayet," its resemblance to that of juries or of arbitration; the fitness of natives to sit as jurors or as assessors in the courts, and their qualifications for discharging the duties of justices of the peace, exercising jurisdiction over Europeans as well as over their own countrymen.

To the oral Evidence, the chief points of which Your Committee have now briefly stated, they have added a considerable number of valuable Documents, which they have arranged in Classes.

Appendix I. The First Class consists of a series of Letters from the Court of Directors of the East India Company to their Governments of Bengal, Madras and Bombay, reviewing severally the operations of the Civil and Criminal Courts at those Presidencies.

Appendix II. The Second Class embraces Discussions relative to the Measures recommended by the Home Authorities in 1814, and the operation of the Changes introduced into the Madras Code in 1816.

Appendix III. The Third Class exhibits the grounds on which the appointment of the functionaries denominated "Commissioners of Revenue and Circuit" took place.

Appendix IV. The Fourth Class contains important Documents relative to the alterations in the Judicial Administration, which were suggested chiefly by the Calcutta Finance Committee, and the Changes which have in consequence been introduced, or are in contemplation.

Appendix V. As illustrative of the details of the foregoing Documents, Your Committee have added a series of Statements, some of which have been prepared in this country, and some in the office of the Judicial Secretary at Calcutta, showing the extent, operations and expense of the Judicial Establishments.

Appendix VI. The Laws, to the consideration of which the labours of Your Committee have been devoted, being spread over a number of large volumes, which it is not easy to consult, and it being frequently desirable to refer either to the course of legislation on the several topics of Local Law or Regulation, or to the subject of any particular Enactment treated of or referred to in any Document under consideration, Your Committee have caused an Abstract to be prepared of the Judicial Regulations of the Bengal Code (which has principally served as the text-book from which the Regulations of the other Presidencies have been framed), and, as the provisions of the Revenue Laws are found to blend themselves so intimately with those for the administration of Civil Justice, and the duties of the Collectors to partake, in so many instances, of a judicial character, the Committee directed the preparation of a similar Abstract of the Bengal Revenue Regulations. These Abstracts constitute the Sixth Appendix.

MEMBERS BEFORE WHOM THE FOLLOWING EVIDENCE WAS TAKEN.

Mr. Robert Grant.

Mr. Shiel.

Mr. Cutlar Fergusson.

Mr. Serjeant Wilde.

Mr. Edward Stewart.

Mr. O'Connell.

Mr. Whitmore.

Mr. Bonham Carter.

Mr. Ewart.

Lord Viscount Milton.

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MINUTES OF EVIDENCE.

Martis, 28° die Februarii, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

Richard Clarke, Esq. called in; and Examined.

1. WHAT is your profession?—I am a retired Civil Servant of the East India Company, under the Madras presidency.

2. How long did you serve the Company?—From the season of 1804.

3. In what departments did you principally serve?—In the sudder adawlut, and part of the time in the Board of Revenue, of which I was junior member when I left Madras. I was also Tamul translator to Government, and *ex officio* a member of the Board for the superintendence for the College.

4. During what period of the service were you in the sudder dewanny adawlut?—I was in the sudder dewanny adawlut from 1814 to 1820, as deputy registrar and acting registrar.

5. In filling those situations, you have of course turned your mind to the subject of the judicial administration of the Company?—I have.

6. As registrar of the sudder dewanny adawlut, you carried on correspondence with the different civil courts of justice, during that time; did you not?—Yes; officially, under the instructions of the judges.

7. Had you opportunities of being acquainted with the course of proceeding in those courts?—I had.

8. Can you state what is the course of education pursued in the college of Madras, during the period of qualifying writers for their situations in the service?—My knowledge on that subject arises from my being an *ex officio* member of the college board of Madras, from 1815 to 1826, when I left India. The writers, on their arrival at Madras, were placed under the general supervision of the college board: their first duty was to qualify themselves in the languages of the country, and for that purpose they were required to select one of the vernacular languages of Hindoo origin; the Tamul, or the Teloogoo or the Canarese, or the Malayalim or the Mahratta; and as a second language they were permitted to take either the Persian or the Hindostanee: they were required to study two languages. The increase of their allowances depended upon the progress they made in their studies, as reported by the college board to the Government. Besides the study of the languages, they were also required to inform themselves on the general principles of the regulations enacted by the local government; and they were examined in their progress as well in the languages as in the regulations, by members of the college board. The regular examinations were half-yearly, but special examinations were also allowed when students deemed themselves qualified to apply for the increase of allowance granted for a certain standard of acquirement in the languages. When a student could translate from and into his first language, with correctness and facility, and could hold a conversation with natives upon any subject proposed to him, and could read official papers put into his hand, and had acquired a knowledge not quite so extensive of his second language, he was reported by the board as qualified to enter upon the duties of the public service.

9. Are any means taken to qualify those who are to take judicial situations?—No other but causing them to read the regulations of the government in the college, and examining them thereupon.

10. You were understood to say that some acquaintance with the regulations was required of all students in the college; is more required of those who may fill judicial situations than of others?—There is no difference made in the course of education of the students, with reference to their future employment in any particular branch of the service.

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11. Is there any and what principle upon which the servants who are to fill judicial situations are selected?—They are generally selected for promotion with reference to their standing in the service, as entitling them to a superior salary; the appointment to office is in the discretion of the Governor in Council.

12. May they be appointed to a judicial situation immediately on leaving the college?—They may be appointed to ministerial offices in the courts; they may be appointed registrars, but they seldom are so. There is no rule prescribing any course of education, or any course of promotion for servants, in regard to judicial offices. When a writer is reported qualified for the public service he is eligible, according to the discretion of Government, either to the revenue or the judicial department; he would enter upon those duties in the inferior grades: if he chose the judicial department, he would probably be appointed an assistant either in the zillah or provincial court, or he might be appointed a registrar; his being so would depend generally upon the number of servants who were at the disposal of the Government to fill the different offices of administration at the period. As assistant, he would perform duties both on the criminal and on the civil sides. An assistant has no judicial functions to perform, he is merely a ministerial officer; but the registrar of a zillah court has jurisdiction as a judge to a certain amount. Under the government of Sir Thomas Munro it was the practice to appoint all young men, on their quitting college, to situations in the revenue department in the first instance: there is no rule of promotion established by the Government, nor is any standard of judicial qualification required, nor does any examination take place on the appointment of civil servants to judicial offices after quitting the college.

13. When does the Government take any and what means of ascertaining the qualifications of those who are promoted to judicial situations?—That is a matter which rests entirely in the discretion of the Governor in Council.

14. What opportunities has the Government of knowing the qualifications of the servants to execute judicial offices?—They have the general means of estimating the intelligence of a civil servant from his public acts, as recorded in the proceedings of the courts, or his correspondence with the Government.

15. Will you explain what you mean by the statement that, under Sir Thomas Munro, the writers began in the revenue department?—Sir Thomas Munro was of opinion, that more extensive general knowledge was to be obtained by service in the revenue than in the judicial department; and as the civil servants were eligible to any office under the Government, he sent them into the revenue department first, as best qualifying them for any situation to which they might be afterwards appointed.

16. At what age do the writers generally leave college at Madras?—About 20; they come out generally about 18 or 19, and they remain in college about one or two years.

17. How early is the age at which they enter on any judicial functions?—According to the course of appointment adopted of late years, a civil servant was generally appointed registrar after about three years service in the revenue department.

18. Did he ever assume any judicial functions before he had been employed a certain number of years in the revenue service at Madras?—According to the common course of practice of late years, a man was not appointed registrar until he had served three years in the revenue department.

19. Can you state the age at which a person gets to the office of registrar?—About 23.

20. During the time he is in college, are there no books which will give him information respecting the law or the judicial system, except the regulations?—He is not required to study any books for that purpose; those who have made progress in Sanscrit at Hayleybury College generally have read the Institutes of Menu; that is one of the text-books of Hindoo law.

21. The moolivee or Mahomedan law expounder, is an officer of the college, is he not?—Yes.

22. Is there a Hindoo pundit and an expounder of Hindoo law also attached to the college?—Yes; there are also classes of native students in Hindoo and Mahomedan law.

23. The writers do not avail themselves of that means of instruction?—They are not required to do so; the instances of their doing so are rare.

24. You know that there are translations of Menu and several other writers on the Hindoo law?—Yes, there are.

25. And

25. And also of several of the authors and writers on Mahomedan law published?—Yes, there are.

26. It is no part of the instructions given to them to obtain information by the reading of those books?—It is not.

27. Will you explain how it happens that there is no instruction in matters of law in the college?—When the civil servants of the three presidencies went to Calcutta to qualify themselves there for the duties of the public service, which was the case under Lord Wellesley's administration, they did study the laws; but after the abolition of that college, the only branch of study required to be carried on in India was that of languages. The college at Madras was established in its best form, after several experimental plans, on a plan formed about the year 1810 by the late Mr. Ellis, of the Madras civil service, who was a very excellent oriental scholar, and also himself well versed in the laws. One of the declared objects of the institution was to have efficient native teachers to instruct the civil servants in the languages of the country; their qualifications were to be ascertained by the board, which was formed of the translators to Government, and of some other civil servants of the establishment who were conversant with the Indian languages. Mr. Ellis was the first senior member or president. It was the duty of the board also to inquire into the debts incurred by young civil servants; a declaration upon honour was required from each at the half-yearly examination, which was of course a confidential communication, stating whether he was in debt, and the amount. By that system the board at Madras were enabled greatly to check the incurring of debt, and the satisfactory result was that the greatest portion of students quitted the college free from debt: in no case, while I was a member of that board, did it ever happen that a student in the college owed more than 5,000 rupees.

28. It is understood that the college of Lord Wellesley was intended as a seminary for the general instruction of all the civil servants under the three presidencies, both in the oriental languages and in law, as well as other departments of knowledge?—Yes.

29. And that the system the Company substituted was that of instruction in this country previously to the going out as writers, in law and in other departments of knowledge which might be requisite; and that having given the writers the rudiments of oriental languages in this country, the college in Bengal should be employed to perfect them in those languages: was the college at Madras formed after that time, and was it modelled upon the plan of the reduced college at Calcutta?—There was a succession of plans at Madras, the first of which were very simple; the last scheme was adopted on a model sketched out by Mr. Ellis.

30. In the functions of criminal justice, at what age are the writers promoted to situations in which they exercise criminal jurisdiction to any extent?—Since the transfer of the office of magistrate to the collector, which took place in 1815, a writer, immediately upon his appointment in the revenue department, was liable to be called upon to execute the duty of magistrate, as the collector might delegate to him the whole of his magisterial authority, or such part as he might deem it expedient to entrust to him.

31. What extent of power would that imply?—A power of imprisonment and corporal punishment within the limits prescribed by the regulations.

32. He might stand in the place of the magistrate almost immediately after his leaving college?—Yes.

33. What is the station at which he might ultimately arrive as a criminal judge?—As a "criminal judge," technically, his duties would be attached to the office of zillah judge.

34. A magistrate has not the power of life and death?—No; nor the criminal judge. The zillah judge is the criminal judge; his power extends to punishment to a limited extent. The next court in gradation is the provincial court, which, in its criminal character, is a court of circuit for the trial of all greater offences; they hold their sessions at the zillahs within the range of their jurisdiction. All capital cases must be referred for confirmation by the court of circuit to the sudder fouzdary adawlut, before they can be carried into execution.

35. At what period of their age or service do writers attain to those high judicial situations?—A civil servant is seldom appointed a zillah judge before he has served from 12 to 15 years, nor generally to the provincial court until after the further service of six or eight years.

36. Was it the principle and general practice of the Government that individuals should be promoted to those high stations according to the character for ability,

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knowledge and propriety of conduct they had established in situations of a subordinate kind?—The appointments to office rested entirely in the will of the Governor and Council; I should say that during Sir Thomas Munro's government, the more able public servants were appointed to the revenue department.

37. How far was the character acquired in the inferior judicial situations considered as establishing a title to advancement?—It was generally so considered, as far as the exigencies of the service would permit.

38. Do you mean to imply that there were not a sufficient number of persons?—At times there was a bare sufficiency; there was no special qualification for the judicial line, neither was the succession of appointment by degrees in the judicial department under any existing law.

39. Was there any rule that made it necessary that a person should pass through t[redacted] ranks of zillah judge and circuit judge before he arrived at the highest?—

40. Then it was possible that very soon after he left college he might be appointed to a high situation?—No; the high situations, with high salaries, cannot be held by a junior servant.

41. Was there any other rule of succession, except that a certain standing was requisite to the filling the places of a certain salary?—None.

42. Were the emoluments of a judicial situation such as to tend to lead men of great ability to direct their attention to those situations, in preference to situations in the revenue or other departments?—Not for some years past; the most lucrative line of promotion latterly was the revenue, and it offered the greatest number of situations.

43. Was there anything in the rank or station a judge held that would induce a man to take that situation rather than that in another department?—No.

44. Have you turned your attention to the subject how far it would be possible or desirable to provide means for the completing the instruction of those servants who were to fill judicial situations?—I think that such a measure is essential to the efficiency of the courts, and therefore highly desirable; the mode of effecting that object is one on which I am not prepared to speak.

45. In your opinion, is the instruction in the Institutes of Menu, or any of the books of the Hindoo law, advantageous?—The courts are called upon to administer to the Hindoos and to the Mahomedans respectively their own laws, and are required by the regulations to submit to the native law officers, who are appointed to their courts, the questions that are necessary to elicit an opinion from them on each point of law that may arise. The law officer, in his reply, generally refers to standard works, the authority of which is admitted in the province in which they are cited. The most important works on inheritance and adoption, which are two of the principal subjects of litigation in the Indian courts, have been very ably translated into English; and there are other works also translated to which reference may be had. A considerable knowledge of the principles of Hindoo and Mahomedan law, in most of the ordinary subjects of litigation, may now be attained by the study of English translations and treatises. The knowledge of the native languages, which civil servants are now required to attain, might enable them to satisfy themselves that the quotations of the Hindoo lawyers were correctly made. A knowledge sufficient to enable a judge to check the officers, and to prevent their imposing erroneous opinions or greatly misleading the court, would seem to be absolutely necessary for the due performance of the duties of the judicial office.

46. Do you think that should be added to the present system of instruction in languages?—Yes, certainly.

47. How far are the European judges dependent upon the native law officers in the administration of justice?—They could not give judgment, in civil cases, against the opinion of those officers, except on very solid grounds. Generally speaking, they are considered as bound by the opinion of the native law officers.

48. Do the native law officers give their answers, as to the law, in writing, so as to form part of the record?—Always.

49. Are the judges sufficiently acquainted with the principles of Hindoo law to exercise a check and control over the opinions of the Hindoo lawyers?—Generally speaking, at Madras, I should say they are not.

50. Will you state more particularly how the law officers are appointed, how they are qualified for their duties, and in what manner their qualifications are ascertained?—Since the establishment of the college of Fort St. George, there has been a class of native students of Mahomedan law, and another of Hindoo law,

under the Sanscrit and Arabic head masters respectively. By a regulation of the year 1817 it was provided, that no law officer should be appointed excepting after examination by the college board, aided by the native professors of Hindoo and Mahomedan law attached to the college, and by the pundits and cauzeys of the sudder adawlut: under this system provision has been made for a sufficient number of learned Mahomedan and Hindoo lawyers to fill those offices. Persons who had qualified themselves by study in the interior were also permitted, on coming to Madras, to be examined by the college board, and were entitled, on proof of their qualifications, to a like certificate with those who had been educated wholly in the college.

51. Are those Hindoo law officers generally well informed upon the subject of the law?—I think they are, and they are remarkably acute in applying their knowledge.

52. Those officers are in the nature of assessors to the judges?—Yes, so far as delivering opinions on points of law referred to them.

53. What is the profession of a native pleader?—The native pleaders conduct the suits of the clients before the zillah and provincial courts and the sudder adawlut; they draw all the pleadings and examine the witnesses.

54. Are they appointed to the office?—They have a sunnud or patent, authorizing them to practise; it is one of the duties of the college board to prepare vakeels or native pleaders, who are, however, not required to have so thorough a knowledge of the native law as those who are candidates for the offices of cauzey or pundit; but they are examined in the native law, and are further required to have a sufficient acquaintance with the regulations passed by the Government. Individuals of this class, when found duly qualified, receive a certificate from the college board, upon producing which before the sudder adawlut, they receive the sunnud or diploma of appointment, in virtue of which they are allowed to practise in any court they may select. The object of these arrangements was as much as possible to assimilate the native to the European bar, leaving it to the clients to make their own selection of their law advisers.

55. Do they address the court in oral argument?—No; the pleadings and motions are all submitted in writing; they examine witnesses.

56. Is there any regulation as to the amount of their fees?—Yes; their fees are all prescribed by regulation; their fees are a per centage on the amount litigated.

57. Are the vakeels generally very good lawyers?—Many of them are very acute reasoners, and some are good lawyers.

58. Do they discharge their duties generally well?—Generally; the vakeels appointed of late are more able than those formerly admitted, owing to their better education.

59. Are they ever promoted to be cauzeys or pundits?—Some of the Hindoo vakeels have been appointed pundits, but before obtaining such an office they would be required to pass another examination, and to obtain a certificate of higher qualification.

60. Does the principle of payment by the amount litigated arise from the positive regulations of the Government?—It is prescribed in the regulations that the vakeel's fee shall be at a certain rate per cent. The fees are paid into court at the commencement of the suit by the suitor, and paid over to the vakeel at the close of it.

61. Has the institution of vakeels been found to be of great utility in the administration of justice?—I am of opinion that it has; their utility must depend upon their skill and knowledge; and the better education given them of late years, and their greater experience of the business of the courts, has much improved these qualifications in comparison with what they were on the first institution of the courts of judicature.

62. What is the nature of the pleadings in those courts?—The first pleading is the plaint, which developes the case of the plaintiff; this is answered by the defendant in his answer, which, when well drawn, states the grounds of the defendant's objections to the case of the plaintiff; the regulations provide for a reply and a rejoinder, and in some special cases for supplemental pleadings. There is great variety, both in the clearness and in the length of the pleadings, depending of course upon the sense and judgment of the pleader; some of the pleadings are exceedingly well drawn.

63. Suppose a question of law arises in the pleadings, is that referred to the judge?—The judge refers the question of law to the law officer, after having gone through the pleadings and heard the evidence, and before passing his decree.

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64. Are the pleadings analogous to equity pleadings in this country?—The defendant is not upon his oath.

65. Are the law and facts blended in the same pleadings?—They are.

66. The judge having consulted the law officers on questions of law, decides upon the whole of the law and the fact of the case?—He does, reciting at full length in his decree the substance of the pleadings, the evidence taken, the reference, if any, to the law officer, with his answer, and concluding with the grounds of his own decision.

67. Are there any fees for the drawing the decrees and other official reports?—The copies of decrees required to be given to each party are written on stamped paper of a certain value; if the parties require additional copies they may have them, by paying for them on the stamps.

68. From what persons do the pundits and cauzeys respectively come?—The pundits are all Brahmins, the moolivees and cauzeys are generally of highly respectable Mahomedan families.

69. Have you seen much of the native judges?—I have not seen the courts of the district moonsiffs in operation, as I have never served in the interior, but I have known many natives who have been appointed to those situations; it was not uncommon of late for persons who had qualified themselves either for law officers or for vakeels, to solicit and receive appointments as district moonsiffs; but any respectable native of known qualifications, and without any particular examination, might be appointed a district moonsiff. The sudder aumeens, who are the Mahomedan and Hindoo law officers of the zillah and provincial courts, also exercise judicial functions, and have jurisdiction to a limited extent in cases referred to them by the zillah judge.

70. Do the Mahomedan and Hindoo law officers sit together in the court, or constitute separate courts?—They sit separately.

71. Describe the distinction between the court of sudder aumeens and the court of moonsiffs?—The sudder aumeens can only receive such suits as are referred to them by the zillah judge, but the district moonsiffs have original jurisdiction to an amount limited by the regulations.

72. Is there any appeal from the decisions of either?—Yes, to the zillah judge.

73. Are such appeals frequent?—I believe that no very great proportion of decisions of sudder aumeens or district moonsiffs are appealed.

74. Do you conceive that the appointment of native judges has, upon the whole, answered in such a manner as to justify more extensive employment?—I think fully so, so long as there is an appeal from their decisions to a tribunal at which an European judge presides.

75. Supposing there were no such appeal, what do you conceive would be the consequence?—I think that the decisions of a native court, whose decrees were final, would not be confided in by the natives themselves in any but small suits; and I think that in the very imperfect state of morality among the natives of India, there is not at present sufficient security for the pure administration of justice uncontrolled.

76. Is it not possible that the very circumstance of reposing more confidence in them would tend to improve them?—I do not see how that effect can be produced, while they are open to so much temptation, and while their principles are so lax.

77. In point of fact, do you conceive the liability to an appeal operates as a very considerable check on the conduct of the native judges?—Certainly, a most important check.

78. Is there not a class of causes in which there is no appeal?—The decree of the district moonsiff is final, I think, as far as 20 rupees.

79. In the decisions where their decree is final, are there complaints made of those decrees?—I believe not: native judges are liable to be sued civilly, and prosecuted criminally, for corruption or bribery.

80. Do you recollect at what period the authority of these judges was introduced to the extent to which it now exists?—There had been for many years native commissioners, not altogether so respectable as the present district moonsiffs. The number of these judges was considerably increased, and their jurisdiction was extended, by regulations passed in the year 1816.

Martis, 6° die Martii, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

IV.
JUDICIAL.

Richard Clarke, Esq. again called in; and Examined.

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81. HAVE you ever turned your attention to the question in what manner the Company's servants to be employed in judicial situations may best be qualified for the discharge of that duty?—I have considered the subject a little since I had the honour of being before the Committee last. In comparing the course of education laid down in the regulation for the college at Calcutta, under my Lord Wellesley, with the systems now pursued, it appears that every branch of knowledge there taught has been provided for either in England or in India, excepting the study of Hindoo and Mahomedan law. General instruction in law is given at Hayleybury college, but it is, I apprehend, merely in the rudiments; and it is known that in every branch of study there is great variety of proficiency and attention exhibited by the students, consequently a considerable number quit the college but slightly imbued with even those general principles of the administration of justice; but on the principles of the Hindoo and Mahomedan law, I believe no particular instruction is given at the East India college. It is also of great importance towards fitting a man for the discharge of the higher judicial functions, that he should acquire, by due preparation, the power of discriminating between truth and falsehood in taking evidence, and certain fixed principles which may generally govern the admission of evidence. For want of practice in these particulars the Company's servants are generally left to form their individual opinions of the mode of determining on the credibility or otherwise of the evidence before them. I think it is owing to this want of experience, and of training to this part of the judicial duty, that complaint is so frequently made of the difficulty of ascertaining the truth, and distinguishing between truth and falsehood in suits between natives. To remedy these evils it would appear necessary that more detailed instruction in law should be given, and that the civil servants should have the opportunity of forming themselves for the administration of the higher judicial functions by witnessing the proceedings of regular courts. The judges of all the Company's courts in India, from the lowest to the highest, have been equally left to fit themselves for the discharge of their functions, and consequently there is no greater certainty of acquiring valuable experience in the higher than in the lower courts. It is one of the duties of the court of sudder adawlut to regulate the practice and proceedings of the lower courts, and this they do by written orders upon points referred for their direction, or upon any subject that arises in the course of the proceedings which come before them, and which may seem to require interference on their part to correct errors or to ensure consistency. But a very small portion of the Company's servants have an opportunity of witnessing this part of the proceedings of the sudder adawlut, as applicable to the general administration of justice; and the mere occasionally reading of an order will convey little general knowledge to the reader of it. If the proceedings of the court of sudder adawlut were under the direction of judges more regularly trained in the study and practice of law, and if the proceedings before them were carried on by oral pleadings in the English language, considerable facility might be afforded for the practical study of the administration of justice to the Company's junior servants; and if examination in the laws which they are to administer were made to precede appointment to the office of judge, it does not appear impracticable to train the Company's servants for the discharge of judicial functions, even in the course of their service in India.

82. In what way are the proceedings of the courts made known to the sudder adawlut, so as to give them the opportunity of judging of them, and providing an uniformity of practice?—First, by appeals, in which every proceeding and order of the lower court is laid before the sudder adawlut in writing; secondly, by petitions presented to the sudder adawlut by parties who consider themselves aggrieved by any order or proceeding of the inferior court; and lastly, by examination of the periodical reports of suits decided by the lower courts, the review of which occasionally

sionally suggests doubts of the propriety of the proceedings in the courts below, when a reference is made to the inferior court for information and explanation.

83. Do you mean it is compulsory on the judges of the lower courts to make those periodical reports?—It is provided for by the regulations.

84. Have you had occasion to see that even the merely rudimental instruction in law which is acquired at Hayleybury proves beneficial in framing the orders for judicial proceedings?—Certainly, in giving general principles of equity and justice. I have always found the judicial officers of the Company anxious to discharge their duty, not only with uprightness, but with great independence.

85. You say that the difficulty of discriminating between truth and falsehood in native suits arises partly from the want of proper instruction in those who have to judge; is it in any degree produced by the want of the quality of truth or veracity in the natives?—Undoubtedly, to a great degree. A native will in general give his evidence rather with reference to the consequences of what he may say to his own interest, than from any regard to its truth or falsehood.

86. Are you aware that it has been urged as one reason for employing native juries and punchayets, that natives are much better able than Europeans to elicit truth from native witnesses?—I am aware that that is one of the reasons urged. There is no doubt that their more familiar acquaintance with the language and habits of their fellow-countrymen must give them a considerable advantage in the discernment of truth; but I think that generally, where the habit of examining evidence exists, as in the judges and counsel in the King's courts in India, the truth is generally arrived at.

87. You mean when natives are under examination?—When natives are under examination.

88. Do you mean to say, that the barristers and judges of the King's courts, though from their education less familiar with the habits of the natives than the Company's servants, yet are more successful in eliciting truth from native witnesses?—I think they are generally so, on the whole; that they are more certain of arriving at the truth.

89. Do you consider the experiment of employing punchayets, on the whole, as having failed or succeeded?—At Madras I believe it has entirely failed.

90. To what cause do you ascribe its failure?—To the unwillingness of natives to take upon themselves the trouble of deciding causes without remuneration, with the probability of bringing upon themselves the ill will of the parties before them, and certain occupation of a great portion of their time in matters in which they have no personal interest; also to the want of confidence on the part of the natives in their decisions.

91. That is, you mean of native suitors?—Yes, of native suitors in the decision of punchayets.

92. Then how far do you think it would be possible to extend the use of native agency in the administration of justice in the Company's courts?—It appears to me that it might be done by associating natives with Europeans in the discharge of those duties: their assistance would be of great advantage as assessors or co-judges; and by being associated with European judges, they would acquire the habit of administering justice without being so much exposed to those temptations and to those influences which have been found generally to affect their conduct in proportion as they are vested with independent authority, and on the extent of which we possess probably less accurate information than on any other relation of the native character.

93. Do you think that the natives, by being employed in administering justice, would by degrees learn to act more independently than Europeans?—In order to the improvement of the native character, I think there is wanting a better moral principle in themselves individually than they are now found to possess, and a more powerful influence of moral opinion on the part of native society. At present their morality affords little internal control over their actions; it does not furnish them with a conscientious check on their conduct; and there is no control of public opinion acting upon them externally. Injustice or misconduct which should prove successful in making the fortunes of a native, would attach no disgrace to him in the estimation of his countrymen.

94. How is perjury punished?—Perjury is punished under the regulations, by imprisonment and hard labour; I am not sure whether by transportation, but by imprisonment and hard labour certainly.

95. Are prosecutions for perjury frequent?—Very frequent.

96. What is the effect upon the character of a native, on his having been prosecuted for perjury, and convicted?—If the man is of a character to which from rank or caste any degree of respectability or sanctity attaches, those qualities would not be affected by his punishment, in the minds of the natives. I believe that persons holding offices attached to temples have been viewed with equal reverence and treated with equal deference in regard to their spiritual authority, while under actual punishment for perjury.

97. And would it not operate as a stain upon them in society?—Not among themselves.

98. In the event of an increased introduction of Europeans, either for the purposes of trade or settlement, into the Company's territories, have you considered whether and in what way the judicial system of the Company must be altered to adapt it to the consequent state of things?—The question is a very difficult one, but I will endeavour to state what occurs to me. In the relations of commerce the dealings of the Europeans would be with the natives on the spot; it would seem necessary, therefore, that one law should exist, which should be equally administered to both: this would seem to render it necessary that the principle of legislation must adapt itself rather to the state of the European than of the native. The natives have been for centuries subject to despotic government: the laws enacted by the British Governments in India for the regulation of their servants, though in their general principle eminently equitable and just, have left more to the discretion of the local officers in the provinces than perhaps could be allowed if they had European settlers to deal with. The laws must be more definite and precise, and must be so administered as to ensure both efficacy and uniformity. The revenue laws, it would seem to me, must be drawn with great care and clearness, in order to avoid frequent collision between the European settlers and the officers of the Government; and, being drawn by competent persons, must be administered with firmness and vigour. It appears to me, that since we are charged with the government of a country, the people of which have always been accustomed to the most submissive obedience to their rulers, and that submission having hitherto ensured the peace of the country, it is incumbent on us to protect our native fellow subjects from the evils that must necessarily arise, if contention between the Government and European settlers should be of frequent occurrence. An European, reckless of consequences and selfishly devoted to his own interests, might create such disturbance in a district, or might so impede the operations of the officers of Government, that the public administration would be almost at a stand: to guard against such an evil, it would appear necessary that a power of removal should be vested somewhere, either in the executive government, or, if it could be done, in courts of justice.

99. Would it be necessary in that case to alter the law of property, in order to render it uniform both to natives and Europeans?—Not the law of property, I should think, which would always follow the law of the party sued in a court of justice.

100. Is not great inconvenience found to result from a rule which regulates the determination of suits by the law of the defendant, where the parties are of different nations or religions?—I am not aware of any practical inconvenience resulting from that rule: the laws of succession and inheritance of the Hindoo and the Mahomedan are so different from each other, and from the English law, that they must, it appears to me, exist separately; and I cannot conceive that we should be justified in refusing to either of the classes of our native subjects the succession to property according to that law which had governed it for so many centuries.

101. Supposing a case of contract, is there a difference in the systems of law?—There is; but it would be much more easy to assimilate the laws of contract, I should think, than those of succession. Indeed, questions of contract in the Company's Courts are generally decided on principles of equity and good conscience.

102. Supposing a case of cross suits, relating to the same subject-matter, would not there be a clashing of decisions?—I cannot exactly see how. I wish to add to a former answer, that one of the principal difficulties that would present itself to the entrusting natives with the administering of justice to any very great extent, singly, would arise from the character of the native code, which, containing many admirable principles of justice, and exhibiting the only rules by which we can be guided in assigning property in succession, and determining on rights of adoption

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and some other points, have mixed up with those subjects much that is so absurd or so unjust that no Christian tribunal could administer it as a whole. But it would seem difficult to prescribe a limit to a native judge in the administration of his own law, and decisions passed by him might be of such a character as would exceedingly embarrass a court of appeal in disposing of them. If natives were admitted to sit with European judges, and to a certain degree under their control, this evil might be sufficiently guarded against, while the native would be thus admitted to a more liberal participation in the administration of justice, and would acquire habits of mind from the European judges which would probably have an extensive influence on his character, and, through him, on those connected with him.

103. Since the natives do actually sit alone as judges in cases of small importance, is there any inconvenience found in those cases from the cause that you have last mentioned?—I believe not. Their jurisdiction has been hitherto considerably limited, not only in amount, but in the nature of the claims on which they were to adjudicate. They had greater jurisdiction in cases of personal than of real property.

104. You mean that the case has not been such as to involve in so great a degree the peculiarities of native law?—Generally not.

105. Might it not be possible to form some common course of instruction to which native judges, as well as European, should be subjected?—The native judges of the principal classes, who have the highest jurisdiction, have generally been well trained to a knowledge of their own laws, including the law of evidence and logic. This last is one of the branches of the study of every native lawyer, and certainly makes them acute and sharp reasoners, though it is no part of the avowed object of that study to lead to the satisfactory ascertainment of truth, but rather to the ingenious defence of the proposition to be maintained. I should think the course of common study referred to might be practicable, but the effect of such a system would not develope itself immediately, it would need the operation of time. I am far from thinking the native character incapable, though it stands in need, of improvement. I think very highly of the natives, as diligent, acute, laborious, and anxious to acquire knowledge, and I think the extent of even their moral attainment fully equal to what might be expected from the institutions and habits of their country; but I do not think that they are at present in a state to be employed in responsible judicial functions without the supervision of Europeans.

106. Have you had an opportunity of seeing how far there is a general confidence in the decisions of the Company's Courts?—I think there is a very general confidence in the integrity of the Company's judges, but not always in their skill. But there are among the Company's servants as many as under the circumstances could be expected, who have taken great pains in the acquirement both of general and of judicial knowledge. Still the circumstance that such qualifications are not examined into or required, and the frequent removals from one department of the public service to the other, have presented obstacles to the preparation of a sufficient number of persons to fill all the judicial situations existing at any of the presidencies, I believe; certainly under that of Madras.

107. Supposing a system formed for the instruction of the Company's judicial servants, should you contemplate it as a part of that system, that there should be a selection of persons for the judicial profession, according to the qualifications which they manifested?—I think there should; but as all the departments of the government must be filled out of the body of civil servants, it might occasionally occur, even under such a system, that a judicial office would require to be filled by one not so prepared. There would seem no objection to the employment of persons qualified for judicial office in the other departments of the service.

108. Do you mean that those persons under education, found unfit to be judges, should be promoted in other lines?—Persons whose turn of mind or inclinations would not lead them to qualify for judicial situations, might nevertheless be very valuable officers in other departments.

109. Could there be any plan by which you should have a larger number of persons, out of which to select those who were to be employed, than the number of judicial places to be filled; and if any such plan be possible, should it be carried into effect in this country or in India?—As the number of eligible persons is generally fully equal to the number of all the situations under the government, and as the judicial situations are not a very large portion of those appointments, I should think it would be practicable to qualify a sufficient number of civil servants

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at each presidency, out of whom to select for the higher judicial situations. The legal education of civil servants in England, before quitting the country, should be carried to a greater extent perhaps, by affording some immediate encouragement or reward to such as should apply themselves diligently to it. And if the proceedings, not only in the Sudder Adawlut, but in the superior provincial courts, were more open, if oral pleadings were admitted, and witnesses examined always by the judges of the court, as in our courts of justice in England, then, under the superintendence of well-selected judges in those courts, and with a gradation of appointment established from the inferior to the superior judicial situations, I should think a sufficient number of civil servants might be educated to fill the benches of the zillah courts, the provincial courts, and the Sudder Adawlut. There are now some excellent judges in the adawlut courts in India, but their qualifications have been the result of their own diligence, coupled generally with a long period of service limited to the judicial department, and that generally in compliance with their own wishes and desires.

110. Have you heard it suggested, or would that be expedient, if one judge of the Supreme Court sat as a member of the Sudder Adawlut; what would you think of such a suggestion?—I think it would be very desirable to have one English lawyer on the bench of the Sudder Adawlut, as well to administer justice according to the general and broad principles of our judicial regulations (which being grounded on rules originally proposed by an English judge, Sir Elijah Impey, would present no difficulties in their administration to such a person), as also to regulate and improve the practice of the courts subordinate to the Sudder Adawlut. But whether the judge of the Sudder Adawlut should also be a judge of the Supreme Court, is a question of doubt. Indeed, it appears to me that the existence of two concurrent jurisdictions, both called supreme, within the same limits, is an anomaly that is productive of very considerable inconvenience.

111. How far can those courts be considered as concurrent?—They are so far concurrent that cases have occurred in which opposite decisions have been come to by the Sudder Adawlut and the Supreme Court, on the same rights, supported by the same evidence.

112. In such case what has been the result; has it occasioned an appeal to this country?—A case to which I was particularly referring was one which occurred at Calcutta a good many years ago, and on some points of which an appeal is now unproceeded in, in England. A Hindoo claimed succession to some property, the greater portion of which was in the provinces. The suit came up by appeal before the Sudder Adawlut: the right claimed turned on the question of adoption: the Sudder Adawlut rejected the claim; the party obtained permission to appeal to the King in Council. Before the appeal was sent home he presented a petition, praying leave to withdraw the appeal, as he and his opponent had compromised. In consequence of this application the appeal was taken off the file of the Sudder Adawlut. A few months after he applied again for leave to revive his appeal, alleging that the deed of compromise had been extorted from him by the other party. The Sudder Adawlut referred to the zillah court through whom the deed of compromise had been transmitted, and learned from the judge of that court that the party had appeared before him, and had most satisfactorily stated the act to be voluntary on his part. Under these circumstances the Sudder Adawlut refused leave to revive the appeal. The party then indicted certain persons before the Supreme Court at Calcutta, for a conspiracy to extort from him the deed of compromise; they were convicted, and sentenced to fine, imprisonment and pillory. An appeal was made to England on the question whether the pillory could be legally a part of the sentence. The whole of the proceedings on the criminal trial were brought into the Sudder Adawlut by the petitioner, as a ground for the granting of a renewed petition that the appeal to England might be revived. Failing in his application, he brought an action of ejectment in the Supreme Court, for the recovery of a small portion of the property of the same estate, which happened to be within the jurisdiction of the Supreme Court. The same evidence which was produced in the Company's courts was diligently and minutely examined by the judges of the King's court. The judgments pronounced by each of the three judges were taken down, and formed the grounds of another application to the Sudder Adawlut for leave to appeal to England. The judgment of Sir William Burroughs, one of the puisne judges, coincided with that of the Sudder Adawlut; but those of Sir Henry Russell and Sir John Royds being opposed to his, the majority of the court decided

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in favour of the claim to succession. The court of Sudder Adawlut, however, still adhering to their own view of the case, again refused to revive the appeal; and the point of appeal to England is, whether the Sudder Adawlut was justified in that refusal. The name of the plaintiff in that case was Rajah Moteelal Opadhia; and that of the defendant was Jagganath Gurg.

113. Have you considered the plan which has been proposed for the institution of legislative councils at the Indian presidencies; and if so, what is your opinion of it?—I have read the papers printed in the 5th Appendix to the Evidence that has been given before the House of Commons, but only hastily, and the subject is of too great magnitude to form a hasty judgment upon. It certainly appears to me that the combination of the knowledge and experience of English judges with those of the Indian governments, would afford the best hope of forming such laws as might be administered with advantage, especially in the event of Europeans being permitted to reside in India in any great numbers. The difficulties which have embarrassed both the courts and the government abroad have arisen in a very great degree from the looseness and imperfections of the statutes regarding India drawn in England; and it would appear impossible but that it should be so. But in order to make the system perfectly effective, it would be most desirable that a greater degree of interest should be excited in England in matters relating to Indian government, and that a more regular and constant acquaintance should be kept up by Parliament and the public authorities with the course of our administration in those extensive and important dominions.

114. Do you consider it is an essential part of such a plan that the Council should be composed partly of judges of the Supreme Court?—I think so, if the Supreme Court is still to continue under a separate authority from that from which the Government derive their power; if the law is to be administered to Europeans by a court which has but a limited jurisdiction over natives.

115. In what way can it be material to have those judges a part of the legislative council?—Because the differences which have occasionally arisen between the Company's government and the King's court are in a great degree traceable to the imperfection of the present state of legislation, to the want of clearness, precision, and fulness in the statutes relating to India. The admission of the King's judges to be parties in making new laws would, I have no doubt, prevent the recurrence of similar difficulties. I assume that the differences alluded to have arisen rather out of the difficulties which the judges of the Supreme Courts have met with in interpreting and acting under the law as it now exists, than from any wanton opposition to the government. If the laws were drawn by the two authorities together, the root of those causes of dissension would, I conceive, be removed.

116. Could the natives be consulted upon that subject?—I should think that natives might be consulted with great advantage, and that they should be so; but I do not think that they are at present in a state of sufficiently advanced mental cultivation to render it advisable to give them a vote in such an assembly. One of the greatest difficulties that we have to contend with in our dealings with the natives arises from their aptness to make use of the influence which they are supposed to acquire from frequent and near intercourse with Europeans in high authority, to attain undue objects of personal advantage; and to this end they too often misstate the quantum of their influence and authority. Or if a native employed in a high duty be himself exempt from this fault, he would not be exempt from the suspicion of it, and improper means would in all probability be resorted to by others connected with him to avail themselves unduly of the influence which he might be supposed to have. It is the difficulty arising from these circumstances that has frequently led many Company's servants of the highest integrity to avoid intercourse with the natives, lest they should subject themselves, or the persons whom they consulted, to the evil consequences to which I have alluded.

117. Do you confine that to Madras?—I believe it is general.

118. In what mode do you think the advice of natives could be obtained, short of giving them an actual vote in the legislative council?—By the most free communication, both in conversation and in writing; and by associating them with us in whatever duties are performed in public, and open to general scrutiny and examination.

Veneris, 16° *die Martii*, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

Holt Mackenzie, Esq. called in; and Examined.

119. WHAT is your opinion generally of the character and qualifications of the native judges, both Hindoos and Moslems?—I believe that those who in Bengal are called Sudder Aumeens (literally, head referees), being the highest class of native judges, and who get a salary varying from 150 to 240 rupees a month, are in general very respectable, and that they are accordingly well esteemed by the judicial officers under whom they act.

120. State in what courts they exercise jurisdiction, if you please?—They have cutcheries or courts of their own, but are established at the places where an European officer is stationed; and they have authority only to try cases that are referred to them by the European judge, either original suits, or appeals from decisions passed by the inferior native judges. These, most of whom are stationed in the interior of the districts, with jurisdictions ordinarily corresponding in extent with the police subdivisions, and with original cognizance of suits of a certain amount or value, in which the parties are natives, are called Moonsiffs. They receive no salaries, but are paid the amount of the stamp duty taken in lieu of the institution fees on the suits decided by them. In many places they are very wretchedly paid, and are, I believe, exceedingly bad judges.

121. These are all under the zillah courts?—Yes. The civil courts of a district are as follow: 1st, The Moonsiffs, whose number varies greatly, averaging about 14 in the Lower, and nine in the Western Provinces: they have original jurisdiction to the extent of 15 *l.* in cases wherein both parties are natives; and from their decisions an appeal of right lies to the district court. 2dly, The Sudder Aumeens, for the trial of cases referred to them by the district judge; of these there are never less than two in a district, the situation belonging, *ex officio*, to the mooftee and pundit (the Moslem and Hindoo law officers or assessors) of the district court; and others are appointed according to the wants of the service; several districts having in all five: their jurisdiction extends to suits of 100 *l.* From their decision there is an appeal of right in all cases decided by them in the first instance. From decisions passed by them in cases of appeal from the moonsiffs, there is what is called a special appeal, which the judge may and ought to reject, if not satisfied that there are special grounds for revising the aumeen's judgment. 3dly, The Court of the Register, whose ordinary authority is confined to the trial, on reference by the district judge, of original suits not exceeding 50 *l.* in amount or value, with an appeal of right to the judge; some registers being vested with special powers, to whom the judge may refer original cases exceeding 50 *l.*, and also appeals from the decisions of the native judges. Lastly, the District (zillah or city) Court, the judge of which has original cognizance of all cases not exceeding 1,000 *l.*, with an appeal of right to the provincial court in cases tried by him in the first instance; a special appeal lying from decisions passed by him, or appeals from the courts of moonsiffs, sudder aumeens or registers. There is usually only one register in a district sitting at the same station with the judge; but in some large and populous districts additional registers have been appointed, who hold their courts at places distinct from the head station of the district, being also joint magistrates. All the officers I have mentioned are paid salaries excepting the moonsiffs, whose remuneration consists in the amount of the stamp duty taken in lieu of the institution fee, in suits decided by them.

122. There are no fees in those courts, except stamp duties?—There are no fees allowed to any of the officers of the courts; and the government fees on the institution of suits and appeals, on the filing of exhibits, on the summoning of witnesses, on pleadings and petitions, and copies of papers (the first only is chargeable in the moonsiffs' court), are all levied in the form of stamp duties, as settled by Regulation I. of 1814. But the vakeels, or native pleaders, who are not properly officers of the court, though appointed by the judges, are remunerated by fees deposited by the parties in court, the amount of which is regulated by a government regulation, and varies according to the amount or value of the thing in suit.

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123. Those fees are all regulated?—Yes, they are all regulated.

124. With respect to these Sudder Aumeens, when you say they are respectable, did you speak of their judicial qualifications as well as of their private characters?—I believe there is no want of talent among them.

125. In point of knowledge of their own law, they are well versed and expert?—I imagine so, generally. The Mooftees or Moslem law officers are usually reckoned men of learning, and well versed in their law, as the pundits are in theirs. But the number of cases turning upon points of inheritance or other questions, in deciding which our courts are guided by the dogmas of the Hindoo or Moslem codes, are comparatively few; and in cases of ordinary contract, they commonly decide according to their notions of what is equitable, with such reference only to local law and usage as may be necessary to ascertain the meaning of the parties entering into the agreement.

126. Will you state whether you conceive that their ideas of equity, according to which they interpret contracts, are founded upon just principles; whether the principles of judicature are good in these cases?—I believe that their decisions are generally good, at least as good as most of those of the European judges above them; but I am not myself qualified to estimate a very high standard of judicial excellence; and I do not of course mean to compare these men with the more accomplished judges of this country; but as far as I can judge, I believe many of them to be very capable of sifting and judging of evidence, so as to reach the facts of the cases tried by them, and of applying correctly just principles. This opinion I hold particularly in regard to the Moslem law officers, whom I have known, and whom I regard not only as men of learning, but of acute and logical intellects, well adapted to the administration of judicial affairs. The Pundits or Hindoo law officers, of whom however I know less, though often learned men, are generally more recluse, and are said to be wanting in knowledge of the world; and independently of those who are considered to belong to the learned classes, numbers of natives, both Hindoo and Moslem, are to be found with much talent and great aptitude for business.

127. You state that the moonsiffs, who are all ill paid, are indifferent judges, and you seem to think the sudder aumeens better judges, who are respectably paid; how far do you conceive that the raising of the emoluments of the moonsiffs would be the means of their qualifications being improved?—I think that by raising the salary you could command any amount of talent you chose. Of the present moonsiffs, indeed, I believe many are men who could not be much improved by any change; but, doubtless, there are among them some men of talent; and if all native judges were put, in point of emolument, on the footing of the sudder aumeens, or had the prospect of becoming so, I conceive that you could immediately obtain for all the courts required, judges with qualifications equal to those which you now have in the sudder aumeens; and it also appears to me, that by holding out the prospect of certain promotion as the consequence of merit, and by facilitating education, you might soon get still higher qualifications.

128. Will you state more particularly any new way that you consider will facilitate the education of these persons?—Already a good deal has been done by government. In the colleges at Calcutta especially, the system of education has been much improved. Besides their own learning, many of the students are now attending to English: mathematics particularly are cultivated; and there is a gradually extending acquisition of general knowledge. By pursuing the system, by establishing more seminaries under proper superintendence, by supplying instructive books, and especially by promoting the acquisition of the English language and science, we may soon give to the educated classes more enlarged notions, notions that will certainly fit them better for communicating and co-operating with us. But of all the means that government can use for promoting the education of the people, and their progress in knowledge and morals, none I conceive will be so effectual as the distribution of public patronage, so as to hold out a fair prospect of promotion to liberal rank, and emolument to those who show themselves superior men.

129. At this moment what are the means of education for these native judges, and especially the sudder aumeens?—For the Moslems there is the Mudrissa or College at Calcutta, in which law and all branches of Mahomedan learning have long been taught; and, more recently established, there are academies at Agra and at Delhi, where both Mussulmen and Hindoos receive a more popular education. The Hindoo law is taught in government colleges at Calcutta and Benares. The students who are admitted on the foundation of the government colleges are selected

on a competition of candidates; and most of them, after passing through the prescribed course of study at those institutions, obtain certificates that they have acquired such a knowledge of law as to qualify them for the situation of law officers in any of the established courts; to which, if appointed, they become, as I have mentioned, *ex officio*, sudder aumeens. A similar testimonial is required from all candidates for the situation of law officer, wheresoever educated. The other sudder aumeens and the moonsiffs are appointed on a general report of their being qualified for the trust; and for both classes there exist, independently of government institutions, various means of education common to Hindoos and Mahomedans, more or less efficient. There are schools of which the masters live by the fees of their scholars, as in this country. Teachers entertained by individuals usually instruct the children of neighbours; and throughout the country, almost every man noted for learning is himself an instructor of youth. I do not remember hearing of any celebrated doctor or pundit who had not young men waiting upon them as pupils, and learning the law and other sciences at their feet. In this way a great many young men are educated in almost every district; but it is not easy to say the precise extent to which instruction is thus conveyed.

130. Do the pupils pay the teacher?—Not generally for instruction of a highly learned character. Those who teach merely Persian or Hindee either take fees from their scholars, or are paid by the heads of the families in which they are employed. But men at all celebrated for learning, and indeed most of the instructors in Arabic and Sanscrit, usually give tuition gratis; often, indeed, feeding and clothing their pupils; and at the government institutions there are a considerable number of students who get a small allowance for their support, it having always been the practice of native colleges, that the student should not pay but be supported. The habits of the people being very moderate, a few shillings suffice for the support of a student. The rank and reputation of a man of learning are promoted by his having many pupils; and both masters and scholars in many cases get presents on occasions of solemnity; it being indeed no disgrace to a poor student to beg.

131. These pupils, then, are not of use to their teachers as they advance?—I never heard that they were of any use. The men of learning who gather pupils about them look more to the reputation of the thing than to anything else.

132. Perhaps in that way promoting their employment?—Chiefly in promoting their rank in society.

133. Now with respect to the allowance in the Government College, is that allowance made by government?—Yes. A part of the general fund is appropriated to the support of a certain number of students. It has been an object with us latterly to encourage the attendance of students who are willing to attend, without pay, for the sake of learning; but with reference to the usages of the people, the change could only be made gradually. I do not doubt that before long all such allowances may cease.

134. Then you think it probable that the value in which tuition will be held will give it a price?—Certainly, if the government hold out the prospect of promotion and tolerably well paid offices as the probable reward of merit.

135. Do the teachers who engage in this private tuition preserve the same system of law and practice, or is any inconvenience found by the private tuition being in separate hands?—I believe the tuition is generally far inferior to what the government institutions give, being less regularly pursued; but the course of legal study is, I believe, so prescribed as to prevent any essential diversity of system, excepting what arises out of difference of sect among the Moslems, and the prevalence, locally, of different rules among the Hindoos, which does not, I apprehend, practically operate to occasion any difficulty.

136. Do you conceive on the whole, by a more extended means of education, by acting on the principle of competition, and by giving better pay to the inferior judges, that great improvement could be made in those judges and in the efficiency of the law?—I should think a very great improvement indeed might be made in the efficiency of the law, and especially in the qualifications of the lower order of judges, by a sufficient increase of pay, so as to make their office respectable, instead of being, as now, miserably paid and little esteemed.

137. Describe more particularly the mode in which these persons are appointed to the situations of sudder aumeen or moonsiff.—At present they are generally appointed on the recommendation of the judge of the court, who reports their sufficiency.

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138. Is it merely by the certificate of the European judge that they are appointed?—For law officers a prescribed certificate, granted after examination by a committee appointed for the purpose, is required, as evidence of their knowledge of law. Their other qualifications are taken on the report of the judge; and in respect to native judges, not law officers, their appointment depends wholly upon the recommendation of the officers who nominate them, in regard to character and qualification. Even the certificates granted on examination, like the title of doctor assumed or allowed by the common voice, can be taken to prove no more than that the man has studied certain books, and read much and long: how far he may have used that reading is another question; and there being no competition, the appointment of all may be said to rest entirely upon the recommendation of the nominating judges.

139. Could means be found to bring into a more accurate test the qualifications of these persons before they are employed?—I think the best test, and which might be gradually employed, would be found in requiring all the men who look to the office of native judge to commence as pleaders. Already the government colleges grant to students certificates which entitle them to act as pleaders; and gradually, I should think, we could, by requiring similar testimonials from all candidates for that situation, get the native bar filled by men of education, who should also be selected as executive officers of the courts. Then if from the best of them the native judges were selected, and if at the same time a gradation in rank and pay were established among the native judges of each district, a very effectual system of competition would result. My notion is, that for an average-sized district twelve native judges would suffice, and that with a gradation of from 100 rupees to 500 rupees a month, those twelve, all being men suitably qualified, might be obtained for about the sum that is now paid to one English district judge, that is to say, 30,000 rupees a year. And I conceive that the native judges should in the first instance be chosen from among the vakeels; and then that their promotion from the lower to the higher rank should be made to depend on the mode on which they discharged their duty, especial reference being had to their good character, to the number of suits decided by them, and the fewness of the appeals from them. No other test or means of competition so effectual occurs to me; but of course the first step must be to have well educated men for vakeels.

140. Are the native judges ever now selected from the vakeels?—I believe very few; but I cannot speak with certainty. I never heard of a law officer who had been previously a vakeel; and indeed the situation of pleader has not hitherto been considered a respectable one, except in the highest courts. In the inferior courts, even in that of the district judge, it is not reckoned a desirable profession. In the Sudder Dewanny Adawlut, or chief court at Calcutta, some of the vakeels with whom I was acquainted had large emoluments, and were men of great respectability and talent; and I believe that in the provincial courts the vakeels are frequently very respectable men; but below that they are not generally esteemed at all as they ought to be, considering the importance of a good bar to the administration of justice.

141. Those officers have a per-centage upon the value of the causes, have they not?—Yes.

142. That is settled by the regulation of the office?—Yes.

143. The amount of the fees is paid into court at the institution of the suit?—Yes, before the pleader does any act for his client.

144. You say that all those native judges would act for about the same salary that is given to one European judge; do you conceive that it would be possible, by taking proper means for the purpose, much more extensively to supersede the use of European by Native judges than is the present practice?—I think that several of the present judges might be dispensed with immediately, if, as I conceive to be reasonable, the native judges were vested with the primary jurisdiction of all cases, and if the labours of the European judges were directed to the object of causing justice to be done, not wasted in the attempt to do it directly. It appears to be necessary that there should be an appeal to the European judge; but the necessity of his investigating such cases might often be obviated by his referring them back for a new trial, either to the judge who originally decided them, or to two or more of the other native judges of the district. And the main business of the European officers being to see that there is not a failure of justice through the neglect or corruption of the natives, their interference in the individual cases should be limited to what is necessary for that purpose. Were this principle followed, I have no doubt there might be a great saving of expense with a more efficient

administration of justice; and indeed, even if the present law were enforced to its full extent, and if the zillah judges took cognizance of such causes only as from their amount they must try, the judicial business of the country might, I believe, be done with fewer of them, or at least more business be done with increase of numbers. It is not, indeed, easy to say what would be the effect on litigation of an improved system. It might increase greatly for a time, if the present system operates to quash just claims, but would in all likelihood afterwards subside; and of course if, by any plan, the same number of judges are enabled to render to the public a greater sum of justice, while the demand for justice remains, it is the same thing as if the work now done were accomplished by fewer judges, in so far at least as concerns the relation of the establishment entertained to the duty to be executed.

145. Have you formed any calculation what would be the difference upon the whole in the event of introducing native judges to the extent to which it now appears practicable?—The best judgment I have been able to form is stated in a letter addressed to the Governor-General in Council, by the Finance Committee in Bengal, dated in July 1830, to which a schedule is annexed, showing that a very considerable expense might be saved. The great object, however, really is to prevent an increase of expense, everybody acknowledging that at present in Bengal the administration of civil justice is extremely bad, and quite inadequate to the just expectations of the people. The European courts are overloaded with arrears, the delay in them is excessive; and, to say nothing of other evils, the large arrear of appealed cases holds out a temptation to litigious appellants that seriously clogs the whole course of justice. This is the more felt from the circumstance that the highest interest adjudged, viz. 12 per cent., is much below what needy natives are frequently in the habit of paying; so that a postponement of payment is a great object, even when ultimate resistance is hopeless. And on the whole, it may, I believe, be certainly assumed, in so far as Bengal is concerned, that some change is absolutely necessary in order to get through the existing business without an increase of establishment. It may be proper to mention, that in the plan submitted by the Finance Committee, to which I have referred, the following arrangements also were contemplated: First, The separation of the charge of the police from the duty of trying and deciding criminal as well as civil cases. Secondly, The union of the charge of the police with the management of the land revenue. Thirdly, The abolition of the registers' courts, and of the provincial courts of appeal, which are intermediate between the zillah judges and the Sudder Dewanny Adawlut. For fuller explanation of the scheme, I would beg leave to refer to the Committee's Report, and the Minutes by its members subsequently submitted. For the civil courts, the main principle was to give the primary jurisdiction to natives, to make the zillah and city judges of appeal, and to have only one superior court of appellate jurisdiction, for the maintenance of general principles and the trial of special cases.

146. The present court of appeal from the zillah court is the provincial judge?—Yes, and from the provincial court to the Sudder Dewanny Adawlut; the principle being to allow one appeal as of right, and one special appeal, upon due cause being shown, to the superior court.

147. Now, looking at the increased employment of the natives in judicial departments, have you ever considered how far a change would answer gradually in the case of a considerable increase in the number of Europeans settled in the interior?—I do not think that there ought to be any serious difficulty in giving to the natives at the head station the power of deciding causes in which Europeans are concerned, even supposing them to be more numerous than appears probable.

148. The question is, supposing the Europeans are made subject to it?—I mean so; and I conceive that the apprehension of difficulty rests on prejudices that would soon pass away, if the native judges were placed on a proper footing, and the English district judge confined to his proper functions. For a time, probably, it might be necessary for the native judges, in issuing out process, to apply to the English judge to back their warrants, and otherwise to seek his support. But that cannot be deemed a very serious difficulty; and the necessity would, I doubt not, gradually cease, or become of very rare occurrence. Under a properly organized system, European settlers would generally, I conceive, soon become reconciled to being subject to local tribunals; and unless the English judge were inefficient, even those who entertain most strongly the notions that arise out of an exclusive system, would see the necessity of submitting, and would submit, and I believe that respectable and well paid natives would decide fairly.

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149. Would it not render a greater number of tribunals necessary?—Only I should think if the Europeans were in such numbers as to change the current of business. If they add much to the commerce of the country, the necessity of such tribunals would probably arise out of their settlement, not otherwise.

150. Did I understand you rightly, that you think the necessity of having provincial courts would be done away with?—Yes, I think they might be done away with altogether. I consider them to be bad courts at present; they are in general filled by men in no respect superior, perhaps inferior, to the district judges over whom they are placed, and their decisions are of no value as guides to those judges.

151. You would then contemplate the existence of an European judge in each district?—Yes, but not precisely the same number as at present. The immediate reduction we contemplated is not however so great as may, I conceive, be ultimately effected; for, in proportion as the natives improve and acquire rank and self-confidence, the number of English judges may be gradually reduced. If I remember rightly, the Committee proposed 41 instead of 52.

152. Are there not European officers assistants or secretaries to the district judges?—A register forms part of the establishment of every court. Those officers who are covenanted civil servants of the Company, were originally ranked among the executive officers of the courts, being also employed to register deeds; but practically their main duty is that of assistant judges, to decide cases referred to them by the judges, either civil suits or complaints of minor criminal offences; and the proposal to abolish the office was founded on the persuasion that the employment of such young men as judges in lieu of the natives, is a bad plan, expensive and inefficient.

153. As to the appointment of the vakeels, they are appointed by government, I believe?—The vakeels of the sudder and provincial courts are appointed by the judges of those courts. Those of the district and subordinate courts used to be appointed on the nomination of the district judges; and though it was prescribed that a preference should be given to persons educated at the government colleges, the selection practically rested on the discretion of the judges. But in 1826 (by Regulation II. of that year), a rule was passed, that native students, in any of the public institutions, who shall receive a certificate of proficiency in the laws and regulations, and of good character, shall, in virtue of it, be admitted to practise in any of the zillah or city courts they may apply to, unless there be special reasons to the contrary, as stated in the regulation I have mentioned. I am not sure, however, how far it has been practically acted upon. I should also state, that among the vakeels there is one called the government pleader, who is employed in all suits in which the government is a party, and whose appointment to that office rests with the government.

154. I would ask whether the moonsiffs are ever appointed from the vakeels?—I believe very seldom.

155. Are the vakeels of a lower class of society than the moonsiffs?—Not generally; but the rank of both is of various degrees.

156. Do the judges of the provincial courts go the circuits for the trial of criminal cases?—Not at present. The circuit duties are now vested in certain officers, called Commissioners of Revenue and Circuit.

157. In the new system, should you propose to continue that, or make the zillah judge go the circuit?—I should make the zillah judge do the duty.

158. And remove altogether that jurisdiction?—Yes, and have a separate superintendence of the revenue.

159. How far does the public voice among the natives appear to call for the increased appointment of natives in official situations?—I believe the public voice is upon the whole favourable to European judges; and that, taking the native community generally throughout the country, they would prefer not increasing the power of the native judges to the exclusion of the European courts. This conclusion I come to, from the distrust with which they generally regard their own countrymen. It must however be acknowledged to be exceedingly difficult to ascertain the native opinion upon any point of that nature. Indeed, upon all points they are too ready, when communicating with those in authority, to say what they think will be received with pleasure. But my impression as to the view they take of the measure of vesting their countrymen with enlarged authority, was confirmed by what I heard after it was known that I was strongly in favour of it. I should observe that I do not think they ever look to the financial part of the question. If they had to decide whether they would directly pay for the one or the other, it would

would be different; but I do not conceive that even the well-informed regard the financial arrangements of government as a matter of any interest to themselves, unless when some precise demand comes upon them. At least, I never knew a native who seemed to regard the expenditure of the public money as an evil, though impatient enough of any demands arising out of such expenditure that disturb their own interests; and therefore I conceive, that in preferring European judges, the consideration of the saving to be effected by the opposite course would never cross their minds; they would think simply having one man they could trust more than another.

160. Do you think they have no feelings of anger, from the exclusion of the natives?—I do not think the general body have, though individuals may entertain the sentiment; and I have no doubt that those who are candidates for office look with very great anxiety to any extension of their means of lucrative employment. Indeed, I know they do, having communicated with many such, who all appeared to be exceedingly anxious for the change; and of course those in new countries, who or whose families have actually lost power, and who retain the recollection of the loss, must be discontented in consequence. But it is to the great body of the people I refer, when speaking of the public voice; and I think that, as far as the Bengal Presidency is in question, the public voice is in favour of employing Europeans, and condemns them when they rely much upon natives.

161. Can you suppose an altered system would secure a better adjudication; is there any reason why a favourable effect should not be produced upon the native opinion by that?—I have no doubt the native opinion would change, when they saw their countrymen, with rank and emolument, administering justice well; they would certainly recognise the advantage of it; but at present they consider them as what they have been under different circumstances; and, generally speaking, the feeling of patriotism is almost unknown to a native, he seldom looks beyond his own village.

162. Is there no national feeling?—I believe there is in some cases. Where particular tribes prevail, they have a feeling for their tribe that may be called national. Thus, for instance, I have no doubt that among the Rohillas there exists a strong national feeling. Probably, too, a national feeling more or less strong pervades the Mahrattas; but I am not at all acquainted with them. I do not think the people of Bengal Proper have any national feeling. The Moslems, indeed, generally have a religious feeling that must operate against our rule more or less strongly; but this, which is not I think very strong among the Bengalese, cannot properly be called national; and the religious feelings of the Hindoos do not seem to me much to affect the question, where caste has not given power or wealth. With respect to the feelings of natives on the subject of public employment, I should add perhaps, that I believe many of the higher natives of Calcutta do complain of the exclusion of their countrymen from lucrative situations, and would be gratified by their admission; but they seem to speak rather from the feelings that have been instilled into them by communication with us, than from those which belong to the great body of their countrymen; at the same time, it appears to be impossible to doubt that such feelings must gain currency and strength with the progress of education, and with the consciousness of rights, which the possession of a good government will give.

163. There has been a vast change?—Certainly; the change that has occurred in Calcutta is very great, and although doubtful whether substitution of natives for Europeans would be popular at the present moment, I have no doubt that to a great extent it is right.

164. How far is the principle of promotion according to merit among the native judges now acted upon?—I believe little, if at all; at least I am not aware of any native judge being promoted, excepting a few instances, in which the law officers of the Sudder Dewanny Adawlut may have been selected from those of the inferior courts.

165. Is there any reason for excluding from judicial offices of any eminence the mixed race between the Europeans and the natives?—I think they ought to be considered as natives of the country.

166. They are now excluded from all these situations?—They may be sudder aumeens, and I think they ought not to be excluded from any situation to which natives may be admitted; but I do not think they should be treated as Europeans, or rather I should say, the principle ought to be, to have no more English gentlemen deputed from England than are absolutely necessary to maintain the dominion

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of England, and that all situations not reserved upon that principle should be open to all classes equally. I think that, for the present at least, the English judges must be men deputed from this country.

167. Both in the lower and in the higher courts?—In the zillah and city courts, and in the sudder courts; and all other courts should be equally open to all classes, whether Europeans or Natives, Christians, Hindoos or Moslems.

168. Do you mean to say by your former answer, that the reputation of the European judge is very considerable among the natives?—In point of honesty it is, I believe, exceedingly good.

169. Is not their confidence in the court greatly shaken in consequence of the junction of the police?—I think that operates only in so far as it occasions delay; it does not seem to be regarded as a cause of bad judgment; it sometimes occasions hasty decisions, and thus aggravates the inequality of judges; and of course the judges are very unequal; and among so many there are some with qualifications quite below what ought to be required for the office. Their decisions are, many of them, exceedingly bad; but there is hardly any instance in which personal corruption in the judge is suspected as the cause of misdecision.

170. Have you ever framed any plan for a general judicial system over India, in which the functions now exercised by the supreme courts should be blended with those exercised by the country courts?—No, I have never formed any plan of that kind.

171. What is your idea of it?—I do not imagine that I could add anything to what is stated in the discussion between the Bengal government and the Supreme Court of Calcutta, of which the papers have been printed.

172. In what Appendix?—In the Appendix, No. V. dated 11th Oct. 1831; and I can only add, that there do not occur to me any serious obstacles in the way of having one Supreme Court, consisting partly of gentlemen who may have practised in courts at home, and partly of those who have risen in the judicial service of the country, to take the place of the present King's Court, and of the Sudder Dewanny and Nizamut Adawlut.

173. How far would it be possible to have an English bar in India from which you could select judges for the country courts?—I do not immediately see how it could be arranged; for the question involves a great variety of considerations. But it would, I think, be very advantageous if it could be so managed (and with one Supreme Court constituted as suggested, with a careful adaptation to local circumstances, it might probably be found practicable), that a portion at least of those who are destined to be judges should practise as barristers.

174. Do you conceive it to be necessary that more care should be taken than is taken under the present system, for qualifying the Europeans who are employed in the country courts as judges?—I think certainly it should be so; it is quite monstrous that the appointments should be made with no better securities for due qualification; it is wonderful that they have done so well as they have.

175. Would you have any system of education or examination for them?—I think that no man appointed to be employed in the civil administration of India should leave this country until he is about two-and-twenty years of age; that all should be required to have an education suited to the high functions for which alone it seems reasonable to depute officers from this country; that consequently, among other things, they should have a liberal law education, by which I mean, that they should be acquainted with the general principles of law and the systems that have prevailed in different countries, in such a manner as a well-educated English gentleman destined for public life would, I presume, be. Their possession of the required qualifications would of course be ascertained by an examination. To this, I would add the making of the appointment, if possible, by some system of competition, so as to be sure of the selection of the best out of many good men. Whether such a plan could be practically brought to bear, I cannot venture positively to say. It was, I believe, partially followed by Mr. Wynn; and if his plan had been carried further, I see no reason to doubt its success. England appears to be full of talent highly cultivated, and struggling with the difficulty of getting employment. I should think, therefore, that for high office in India, you might require, and could easily obtain, almost any amount of qualification.

176. What was Mr. Wynn's plan?—It was, I believe, merely giving a certain number of appointments to the public schools and universities, in order that they might appoint those who were most eminent.

177. Would you apply that principle to exacting legal qualification, or do you

speak merely of general education?—Among other qualifications, I should require legal knowledge, not technical skill, but a liberal acquaintance with law.

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178. Have you known that the degree of elementary instruction that is acquired at Haileybury in the principles of the law has been of any use or otherwise in India?—As far as I have seen, no perceptible result has followed from the legal instruction there given; and though I dare say it has been of use, it must, I imagine, have been very slight.

179. Do you conceive, that if you had an unlimited number of candidates in this country out of which the requisite number of appointments should be made, or do you mean, having a good number of appointments, means should be taken to qualify or to have persons appointed as well qualified as possible?—I think the more you have to select out of the better. The best of all would be a general competition of the whole body of educated Englishmen who might desire the appointment. Next to that is a selection out of a body which, though limited, considerably exceeds the number to be selected. It was, I believe, proposed by the professors at Haileybury, that the Court of Directors should send to that institution twice as many as were to be appointed as civil servants to India, and that the best half should be selected for the appointments. That would have been a great improvement; but I think it would be better to follow Mr. Wynn's plan, and select from among the competitors of a still larger body.

180. By Mr. Wynn's plan, do you mean the plan proposed by Lord Grenville, of selecting the writers from the public schools and universities?—Yes. I have called it Mr. Wynn's, because he acted upon it in regard to some of the appointments that were at his disposal when he was President of the Board of Control.

181. In so far as the judicial appointments go, do you not conceive that more practical knowledge would be required than is to be obtained by individuals appointed from the University; there it would be theory, the other would be practice?—You must, I think, be content with giving theoretical knowledge in this country. And it is not merely judges that are to be provided; nor can Indian judges be generally fit for their business without local experience, and that an experience in affairs not strictly judicial. My notion is, that the civil servants should still, in the first instance, be employed as assistants to the magistrates and collectors or political agents; that in that capacity they might acquire a familiar command of the language, and a knowledge of the notions, habits and institutions of the natives, and become practically acquainted with the system and principles on which the business of the country is conducted. Those who were not disposed to pursue the judicial line might be otherwise employed. But it is chiefly for judicial duties, or administrative functions partaking largely of the judicial character, that provision must be made; and if, without sacrificing the more important objects of general experience and knowledge of the people, it were practicable to establish the plan of a local bar, at which persons destined to be judges should practise during a part at least of their preparatory course, it would, I think, be a great improvement. I am not sure whether any such thing could be managed, but it is very desirable that it should be kept in view.

182. In contemplating the new arrangement of the courts in Asia, did you contemplate the junction of the Sudder Courts with the Supreme Courts?—That was one of the measures contemplated by the Bengal government; but it does not seem to be a necessary part of the proposed arrangement of courts for the provinces. The constitution of the inferior courts might be changed as suggested, without any change of that kind in the Sudder. But the junction of the Sudder and Supreme Court would, I conceive, be an improvement.

183. Supposing the junction were to take place, and that was made the agreement merely in appealing, do you not conceive that there would be so much business attracted to that court that you might select a great number of inferior judges from the bar of that court?—I think it might probably be done; but I should observe, that the plan appears to imply that all the courts shall have a code for themselves, that they shall not be bound by English law further than may be distinctly provided on a full view of local circumstances, and that its mere technicalities, especially those which attach to landed property, shall be got rid of. It seems unreasonable to extend the law of real property to that country; and although I cannot of course pretend to give an opinion of any value on such a subject, I must acknowledge that I cannot see why there should be any serious difficulty in giving to India a code of laws to be administered equally by Native and English judges.

184. In such a case, would you allow a free resort of Englishmen and Natives to practise in such a court; at present they are appointed by government?—I should be for permitting perfect freedom in the access to the bar.

185. With respect to the plan of selecting writers from the public schools and universities, who should afterwards fill judicial situations in India, do you not conceive it to form some objection, that in no public school are the principles of law taught, and at neither of the universities does the law form any part of the ordinary academical system of instruction?—I do not think that a serious objection; I have no doubt that knowledge of law would be had, if a prize were held out for it.

186. Do you mean to say, that if a certain legal qualification were required, and the candidate were to be left to find that qualification where he could, so that he answered the test, that every purpose would be fulfilled?—Yes, I have no doubt that candidates would be found with the required qualification. The knowledge of law, not the result of practice, is, I imagine, chiefly acquired by the means of private study.

187. Do you know whether the profits that an English barrister could make in the courts would be sufficient to create a bar there; how would that be?—The profits to a certain number of the barristers of the Supreme Court are very large; and those also of some of the native pleaders in the Sudder Courts are liberal; but I cannot answer the question with precision, and the circumstances would be different.

188. How would a mixed bar practically unite?—The two bars, as now constituted, could not at all amalgamate, and I conceive it would be absolutely necessary, if the courts were united, that all their proceedings should be in English; for I do not see how you could have a united court so long as any of the proceedings, any part at least of the oral pleadings, were in Persian. And for a long time natives could probably be virtually excluded from the bar of the united court. Ultimately, however, I do not doubt that they would, if allowed, take their part, and the plan, if at all adopted, should be extended gradually.

189. Are the civil suits in the native courts expensive to the suitors?—I believe generally so.

190. From what cause?—The fees are heavy in proportion to the amount, as appears from a statement which was furnished to me from the Sudder when I had occasion to inquire into the point in Calcutta; and there are, besides, expenses of which we have no record. The statement is in Persian; but if the Committee wish it, I shall hereafter have the honour of giving in a translation of it. In the meantime, I may mention the first case. It is a suit for 155 begahs of land valued at 930 rupees. It passed through three courts, and the stated costs were about 670 rupees.

191. Will you state what the courts are?—The first is the Zillah Court, in which the costs of the plaintiff are stated at rupees $194\frac{5}{16}$, and those of the defendant at rupees $90\frac{6}{16}$. The second is the Provincial Court of Appeal, in which the costs of the appellant and respondent are respectively rupees $102\frac{8}{16}$ and $52\frac{8}{16}$. The last is the Sudder Dewanny Adawlut, in which the costs are stated at rupees $128\frac{8}{16}$ for the appellant, and rupees $102\frac{8}{16}$ for the respondent.

192. In the paper alluded to, is there any cause in which there is more than two appeals?—No, there are only two appeals.

193. As the courts are now constituted in Asia, could there be in any one case more than two appeals?—I apprehend not, at least in Bengal, where only suits exceeding 5,000 *l.* are appealable to the King in Council.

194. What is the ultimate course of the appeal in those causes which are instituted in the courts below the zillah courts?—The provincial courts, if the first appeal has been decided by the zillah judge.

195. Supposing a cause to be instituted in the moonsiffs' court, is the appeal from that court immediately to the zillah court?—The appeal is to the zillah judge; but he has the power of referring it to the Sudder Aumeen, and then from the decision of that officer there will be only a special appeal to him. If he tries it himself in the first instance, then there will be a special appeal to the court above him.

196. Are there appeals frequently in causes that are instituted in the lower courts?—As far as I remember the result of inquiries regarding some of the districts in the vicinity of Calcutta, the appeals from the Moonsiffs were about one in twenty, and those from the Sudder Aumeens about one in seven.

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197. Can you state what proportion to the zillah courts?—I do not immediately remember.

198. Have you any documents which would give you that with regard to the zillah or provincial courts?—No; but I think the information will be found in the records of the judicial department.

199. Is there not a good deal of corruption practised by the natives in the courts, the native officers, by whom the summonses, for instance, are issued, and by whom the causes are appointed to come on in rotation?—It is supposed generally that there is considerable corruption; but I should think it must chiefly prevail in regard to the execution of decrees and other process. Many decrees are passed which are never executed, either from the party disappearing or making away with their property; and in the executive part of the court's business a considerable opening is given for corruption.

200. Do you not conceive the native officers of the courts are very accessible to bribery?—I believe so, unless they are well controlled by their superiors.

201. Are not these native officers appointed by the individual judge?—Yes, vacancies are filled up by or on the nomination of the judges.

202. Is it customary for him to take persons from a distance and place them in those situations?—I do not think that such is the general custom; though much depends on the will of the individual. Many judges are averse to strangers, and I believe, make it a point as far as possible to select for vacancies men of the province in which they are. Others pursue an opposite course, and I am afraid, sometimes unduly favour men that follow them.

203. Should you recommend the use of juries in the country courts?—I think it very desirable, if possible, to get the natives to assist in the administration of justice on the principle of jurors; but in the first instance, at least, it should be done in the way which is prescribed by the Bombay Regulation IV. of 1827, which leaves it optional with the judge to employ the natives as jurors, assessors or referees, without at once going the length of giving them a definitive voice.

204. Have you witnessed the experiment of the punchayet?—No, I have never witnessed it.

205. What is your opinion as to the success of the experiments that have been tried?—I believe it has very much failed, when it has been adopted as a substitute for regular courts of justice.

206. From what cause has it failed?—Chiefly, I think, from this, that the members have been neither supported nor directed nor controlled, but have been left to all their native irregularity, and not properly made a part of our judicial system; still, however, I believe that it has been very extensively used to settle matters that have never come within the cognizance of any of our courts.

207. How far is the punchayet analogous to the English jury?—It can scarcely in its native shape be said to bear any distinct analogy to a jury, being, in fact, merely a body of men to whom a cause is generally referred. They are not bound to decide; there is no issue given to them to try; they are under no direction, and are left to scramble out of their case as they best can.

208. They perform the functions both of judge and jury?—They are rather arbitrators, being, in cases of dispute between individuals, usually, I believe, nominated by the parties; and they very often, I have understood, act quite as partisans of the party that has selected them.

209. Are they sworn in any way?—No.

210. What is the general number?—I believe it varies, although the name indicates five as the general number. In cases relating to questions of caste, with which the European officers have comparatively little to do, they are frequently very numerous.

211. The decision of the punchayet of the village has not the validity of a judicial decision?—If the parties in a suit consent to a reference to a punchayet or arbitrators, their decision has the validity of a decree of court, and will be executed accordingly, unless there be corruption or gross partiality, on proof of which the award may be set aside.

212. Have the revenue officers ever used the punchayet?—Yes; I believe the native collectors use it extensively to adjust various disputes between the village communities and the different members of such communities. The collectors, too, frequently have recourse to it in the determination of questions of private right when making settlements. And one officer in particular, with whom I have had much communication, and who is singularly well acquainted with the natives of the

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country where he has been (Mr. W. Fraser), systematically employed it to a great extent in settling the boundary disputes between villages, preparatory to the survey of the Delhi territory and the districts immediately adjoining; and he stated that he had found the plan very successful, having, if I recollect rightly, obtained the decision of about 300 cases in that way, a little while before I was with him. His scheme was partly on the principle of a jury, and partly on that of the punchayet; that is to say, the members were generally chosen on the nomination of the parties; but they were required to decide without delay; the matter in dispute was brought to a distinct issue, and the whole proceedings were regularly recorded by a government clerk who was deputed for the purpose, with instructions to follow a prescribed course. The disputes were generally between (what I may call republican) communities of yeomen cultivating their own fields, for the possession of land generally of little value, but very eagerly contested by the people. The head men of the contending villages, acting for and in presence of the whole body, were required to nominate six on each side, making in the whole 12. The right of challenge was freely allowed; and the jury (so to term it) was required to be unanimous. Mr. Fraser's reason for having so many as 12 was, as he said, chiefly that they might, by their number and weight, be placed above the reach of intimidation or danger from the vengeance of those against whom they might decide; and it was with the same view, also, with that of putting down party spirit, that he required unanimity.

213. They did not consist of the immediate parties?—No, they generally consisted of the more respectable people of the villages in the same pergunnah or local subdivision.

214. Were they boundaries between the properties of individuals or boundaries between the communities?—Boundaries between the communities, and generally of little comparative value, though very eagerly fought for.

215. Did they generally give satisfaction?—So he stated.

216. Do the natives now sit upon juries in the presidencies?—At Calcutta they occasionally sit as jurymen in the Supreme Court.

217. In civil cases or others?—Juries are only used in criminal cases, including, by a late decision, informations for the recovery of penalties.

218. They sit upon the grand jury?—No, they have not yet been admitted to the grand jury, which is, I think, a great mistake.

219. What has been the result of that experiment?—I should think it has hardly been tried upon a sufficient scale to enable one to pronounce any conclusive opinion; at least I have none.

220. Now with respect to the distance that the suitors often have to travel, is not that distance so great sometimes as almost to amount to a denial of justice in cases of small amount?—I do not think that would operate severely if there was no delay; although for the smaller cases you must continue to have a certain number of courts in the interior of the districts. Were it not for the delay, which is great and uncertain, I do not think that suitors in the cases tried at the head station would be much inconvenienced by the distance.

221. It is not the suitor alone, but his witnesses also?—Certainly; they must also and chiefly be considered.

222. To what cause is this delay chiefly to be attributed?—Chiefly to the arrear of cases in the courts.

223. Have not parties often been kept waiting for days together before their cause has been called on?—I should imagine it has frequently happened.

224. Would not the freer admission of the natives to public situations of trust and importance be likely to produce a favourable effect on the native character?—I think essentially so. I have no conception but that it depends mainly upon the government whether the natives of India shall be quite as good as those of any other country, though one cannot entirely exclude the effects of religion. For honesty in public trusts, you must rely chiefly upon those who are trusted liberally and well treated. I am not aware that the experiment has, in India, ever failed when it has been fairly tried; and I should assuredly expect that the public confidence and satisfaction in the native judges will depend upon their having proper rank and emolument and consideration from the government.

225. The utmost amount of the salary of the judge of an inferior court is 140 rupees a month, you say?—No; some get 240 rupees a month, the 40 rupees being for establishment and miscellaneous expenses which the native judge is left to bear; the 200 are to be considered clear salary.

226. Is he not obliged to keep a palanquin?—He generally does so, I imagine; but it is not absolutely necessary.

227. The expense of that is stated at 30 rupees a month, as one of the deductions?—A native would probably keep a palanquin for much less; they generally pay their servants less than we do.

228. Two hundred rupees a month would be 10 *l.*?—No, about 20 *l.*; and I think an average of 300 *l.* a year would be sufficient.

229. The forms of these courts are exceedingly simple, are they not?—Yes; the forms, indeed, of the country courts generally are as simple as they can well be. I am not aware of any form that could be advantageously dispensed with; and in the pleadings of the parties no particular technicality is required.

230. Supposing the question to lie between a Hindoo and a Mahomedan, in that case what law is followed?—The general rule is, that the law of the defendant is to be followed; but that provision I apprehend will seldom apply, because in cases of contract the judges are not bound either by the Hindoo or the Mahomedan law, and of course persons of different faiths will seldom be parties in cases of inheritance or other questions requiring a reference to those codes; indeed, a Hindoo becoming a Moslem or Christian, there arises a nice question which I am not able satisfactorily to answer; viz. how far the forfeiture prescribed by the Hindoo law would be enforced against the convert; I should think it would not be enforced against him if defendant. On the other hand, if he were plaintiff suing against Hindoos for his inheritance, I am afraid the Hindoo law must be enforced against him; and so with Moslems embracing Christianity.

231. Europeans residing in the interior are subject to the Company's courts to a certain extent, are they not?—In the civil department, I am not aware of any limit as to the amount, excepting that if the cause be such as would, in the case of a native, be appealable to the Sudder Court, it may be carried by appeal to the King's Supreme Court. In other respects, British subjects are subject to the country courts to any extent, provided they fall within the Act of Parliament that makes them so.

232. In criminal cases how is it?—In criminal cases they are only subject to the extent of a fine of 50 *l.*, in cases of assault or force, not being felony. In all cases of felony, they must be brought to the Supreme Court.

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Lunæ, 26° die Martii, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

David Hill, Esq. called in; and Examined.

233. WHAT is your acquaintance with India?—I went to India in the year 1806; I was employed there more than two years as an assistant collector; I was then in the secretary's office at Madras for 19 years.

234. Was that assistant collectorship in the country?—In the districts. For the last 16 months I was employed at Calcutta, as a member of the finance committee.

235. Your attention is requested to the following passage in your letter of the 30th of last January, which has been laid before this Committee, where, speaking of the want of any species of entail, under our regulations in India, for maintaining the ancient usage of the country, under which its old hereditary estates descended in the line of primogeniture, and were preserved in their entirety, you state that Sir Thomas Munro emphatically recorded his conviction that the evil just noticed was bringing the country to ruin; in what documents are the opinions of Sir Thomas Munro on that subject to be found?—In a minute recorded soon after he assumed the charge of the Madras government; I think in the year 1820.

236. Can you state more particularly what is that ancient usage of the country to which you have alluded in your letter?—Under the usage of the country the ancient zemindaries descended entire to the eldest son of the last zemindar, unless he was incapacitated on any ground, in which case a different member of the family was selected; but the zemindary was not liable to be divided nor to be alienated.

237. Not for his debts?—Not for his debts.

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238. What is there in the present practice that has so ruinous a tendency as Sir Thomas Munro supposes?—Under the regulations the zemindaries are now answerable for debts, and are at the disposal of the present holder.

239. By the former usage the zemindar could not dispose of it by will from his eldest son, could he?—He selected a member of his family, and sometimes passed over his eldest son.

240. Without incapacity?—He was the judge, by the ancient usage.

241. By the ancient usage he could select?—He did select.

242. The person whom he thought the fittest?—Yes, the person whom he thought the fittest out of his own family.

243. Among his sons or his relations?—He did not select past his own sons; he would adopt a son if he had none.

244. Do you conceive that the provision which makes these lands saleable for debts could be rescinded or modified?—I have no doubt that it would be very advisable it should, provision being made for the payment of the existing debts; in fact, I framed a regulation for the purpose, under Sir Thomas Munro's direction.

245. Does that regulation exist anywhere now?—No, it was not adopted.

246. What measure would you recommend, by way of preventing the evils of the partition of property among the Hindoos?—I am not prepared to suggest any definite measure; but I entertain no sort of doubt that it would be easy to frame legislative measures that would correct the effect of this continual subdivision of property. Various measures will suggest themselves; the rule of primogeniture in this country, or the French rule of succession.

247. How far could any such change be introduced, without giving an inexpedient shock to the feelings and prejudices of the natives?—I am not aware that it would shock the feelings of the natives; I think it might be framed so as to be made extremely agreeable to them.

248. The principle of the Hindoo law is, that the property shall descend equally among the children, but an exception obtained by usage in the large possessions of the zemindars?—The ancient possessions of the zemindars who existed before we took possession of the country.

249. Was that confined to the large possessions, or did it descend to small properties?—I believe it was entirely confined to the ancient zemindaries, where the chiefship passed by the name of Samistanum.

250. Was it a species of dominion?—In many instances it was, depending on the extent of that possession.

251. And in many cases they had the power of government, had they not?—They had the power of government, and of capital punishment.

252. Those are the possessions you are particularly referring to, as being at the disposal of the proprietor by the selection of one of his sons, but not divisible among his sons?—Those are the possessions; not exclusively large dominions, but possessions held in that way, are what I allude to.

253. Then this usage of the succession going to one of the family, and not being divided, was not confined to these large territories and dominions of the zemindars you have mentioned?—It was confined to the ancient estates which we found subsisting when we took possession of the country.

254. Is that rule of descent that you have mentioned of the ancient zemindaries continued, or has it been changed?—Under the operation of the regulations, the estates are liable for all the debts of the holder, and are at his free disposal.

255. Liable to be sold for the government revenue?—Yes; but the government are extremely reluctant to put that power in force with respect to the ancient zemindaries.

256. Were the ancient zemindaries, before we had power of that country, liable to sale for government revenue?—I imagine that the lord paramount of the land exercised whatever authority he saw fit; he certainly did not expose the zemindaries to sale in the method we should pursue, but he realized the tribute he considered due.

257. These observations you have mentioned have been confined to the presidency of Madras?—Entirely.

258. Is there now any exception from the Hindoo rule of descent, among all the sons, within the territories of Madras among Hindoos, that you are aware of?—None, with such exceptions as the Rajah of Tanjore; but they are sovereign princes in some point of view.

259. Within those possessions that are directly subject to the government of the

East India Company in the Madras presidency, is there any landed property which is not subject to division among all the children, according to the Hindoo law?—None, as far as I know.

260. In the case of the possessions of the Mahomedans, does the Mahomedan law obtain also in respect of estates in all cases among the children?—The Mahomedan or Hindoo law prevails, according to the religion of the party.

261. There is no exception of the estates of the Hindoos from the ordinary rule of descent, either among Hindoos or Mahomedans?—I wish to explain that, although under the regulations there is no exception, yet I am not disposed to believe that in practice the succession is generally varied.

262. You do not think that in practice it has been uniform?—I do not think effect has been given to the levelling operation of our regulations by the zemindars; our regulations make no distinction between the raj and the private estate.

263. The regulations do not make a distinction between the ancient zemindaries and modern possessions?—No.

264. What do you conceive to be the evil of that subdivision of property?—I should answer, in one word, its levelling operation.

265. Do you think that the land is worse cultivated in consequence of that subdivision of property?—I do not believe it is.

266. Do you not think that it may be better cultivated by reason of that minute subdivision?—I think it likely that it is.

267. Then your objection is, that it goes to the destruction of the aristocracy of the country?—The destruction of the aristocracy, and of the unequal distribution of wealth throughout the community; there can be no such thing as private wealth.

268. Then do you consider that great advantages would be derived in that country from the unequal distribution of wealth?—Certainly, from the existence of different ranks in society.

269. A great many of the ancient zemindaries have been sold, have they not, for government revenue?—Some of them have been sold; but government have been extremely reluctant to resort to that measure, and of late years have not done so in any instance whatever.

270. Then what was the course, if the government revenue was in arrear from the zemindaries, when they have not proceeded to a sale?—The collector undertook the administration of the affairs of the zemindary, and put the zemindar on an allowance, and the surplus was carried to the credit of government.

271. Has that mode succeeded?—It has been attended with a certain degree of success, in some cases with complete success.

272. Do you consider that that mode of administering the estates by a collector was preferable for the interest of government to that of seizing the zemindary, and bringing it to sale?—As far as the recovery of the arrears of revenue is concerned, the effect is the same if the process prove successful: as far as the ancient families are concerned, and also the preservation of the peace of the country, the government felt a very strong interest in saving the estates from sale.

273. Do you consider it to be for the interest of the government in India that the large proprietors should not be destroyed?—I think it is for their interest, and much for their credit too.

274. Within the presidency of Madras, that rank of the proprietors has been carefully preserved as much as the government could preserve it, has it?—Of late years certainly so; I do not recollect any instance in which of late years the government have sold an old zemindary, but there have been such instances formerly, I believe.

275. You are speaking of the Madras government?—Only of that.

276. If there is this abstinence on the part of government to sell these ancient estates for their own demands, what has led to the partition of those estates?—The private debts contracted through the prodigality of the zemindar.

277. Would you then think it right that there should be any law which should prevent the sale of the landed property of any person, to meet the just demands of his creditors?—If it would prevent their prodigality, it would be a great benefit; and it would have that effect, if the creditors could not obtain payment of their debt out of the land. It was intended, in the proposed regulation, that respect should be had to all existing debts on the estates of the zemindars; provision was to be made for liquidating the debts, not by the sale of the zemindary, but by appropriating the revenues.

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278. Do you mean that in your opinion there ought to be a regulation generally preventing the sale of lands for debt, or that it should be confined to the large zemindaries?—It was intended all the large zemindaries should be embraced, and provision should be made by which the government should be able to admit other properties to the benefit of the same regulation.

279. Was it to be property generally, or of a considerable amount?—Only landed property of considerable amount.

280. What you would call the landed aristocracy of the country?—Yes.

281 Has it been found that the system of sequestrating the estates under the collector has answered as well for the interests of the public revenue as the system of putting to sale lands of the deficient zemindary?—A former answer I think meets that question. I stated, as far as the revenue was concerned, the system answered equally well; and a great deal better, as far as the interest of the country is concerned. In point of fact, it has answered better: the estates in various instances have been restored to the zemindar after recovering all arrears of revenue.

282. Is it not sufficient that, without taking the power of sale from government, there should be a practice by government to sequester as far as possible, but with a power of sale, supposing the exigency to be such as to require that extreme measure?—The revenue can never be much in arrear; it is not like private debts; it is only one year's collection, for the collector can immediately take possession.

283. Can he always realize the amount from the produce of the year?—He retains possession: the arrears of one year's revenue could always be realized in the two following years; there never would be a hazard of incurring loss.

284. Would there be harm in holding over the zemindar the possibility of ultimate loss of his land?—The proposed regulation was, to make a provision that the estate was to be liable to be sequestrated for a time, until the revenue was recovered; and the estate was liable to be forfeited for failure in allegiance, but not for arrears of revenue.

285. Would there be no danger lest the knowledge, on the part of the zemindar, that he could in no case of mere deficiency forfeit his land, should render him less careful to satisfy the demand of the government?—I do not apprehend that any hazard would be incurred on the part of the government as to realizing its revenue. These zemindaries are not heavily assessed to government, and the remedy would always be at hand as soon as the arrears took place.

286. Have you ever considered how far it would be practicable, in the place of the two judicial systems which subsist in India, one that of the Supreme Court, the other that of the Company's courts, to establish one system sufficiently comprehensive to include both the administration of justice in the presidencies and that throughout the provinces?—I have had some occasion to consider the question, by having perused papers that were written on it by the members of government and Judges of the Supreme Court at Calcutta, at the period when the question was under their consideration.

287. What is your opinion as to the practicability or expediency of such a change of system?—I can hardly say that I am entitled to entertain any opinion upon the subject; I consider the object to be extremely desirable, but it was evidently encompassed with a great deal of difficulty.

288. Is not a good deal of difficulty produced by the present system?—A great deal of difficulty; which was shown by the papers written on the subject, and which in fact led to the consideration of it.

289. Have you known instances of something like a conflict of jurisdictions?—Much less of that than might have been anticipated from a consideration of the real anomalies and embarrassments of the present system.

290. Would further consideration enable you to give any ideas to the Committee on that subject?—I am not aware that I should be able to throw any new light on it: my general impression was, that the object was not impracticable, and that vast benefit would ensue from its accomplishment.

291. What is the species of difficulty you would apprehend from having such a change of system?—The main difficulty in civil matters regards the introduction of a new class of proprietors; Englishmen, Europeans, whose rights are to be mixed up with and fastened on to those of the natives. With respect to the criminal jurisdiction, and in some measure the civil also, the difficulty consists more in the establishment of judicatories capable of administering the law.

292. You conceive the greater part of the difficulties which must be apprehended, arise from the circumstance, that in point of fact two systems have subsisted up to

the present time?—I am not aware that much difficulty would arise from that circumstance.

293. By going from one system to another, you have introduced the English law into the presidencies; and to have one uniform system you must substitute more of the native, must you not?—There would be some difficulty from the change, but I do not apprehend that serious difficulty would arise from that circumstance. I think the difficulty is inherent. The difficulty, I conceive, is to form a system of law that will suit the rights of Englishmen, Hindoos, Mahomedans, and all other classes of people, so as to be at all reconcileable to those existing rights which they now enjoy. If any respect is to be had for their existing rights, I imagine immense difficulty will be found in framing a system of law on which property, held according to those rights, may be transferable from one class of the community to another.

294. Would not the same difficulty exist in framing a system of law for the country at large, supposing there were a great increased number of European settlers?—I apprehend that would be a serious objection to the admission of European settlers into the country.

295. In what way does it constitute an objection?—It constitutes an objection, in the first place, on the ground that has been now adverted to, the difficulty of framing a law applicable to this new class of inhabitants; secondly, because the new class of inhabitants will belong to the dominant party in the state, and form a class which never can coalesce with the indigenous inhabitants, the present natives of the country: they will be favoured by the Legislature, as they have been since the operation of the opening of the trade has led to the introduction of a greater number of settlers than formerly; they will be favoured by the Government of the mother country; and lastly, I think it would be impossible to establish tribunals throughout the districts which might be occupied by English settlers, competent to administer criminal and (in large and difficult cases) civil law over Englishmen. I cannot conceive that the British Legislature would give the power to a young English gentleman, in one of the Indian courts, to try his countryman for his life, or still more, that that power would be delegated to native tribunals, if they were invested with such a jurisdiction over the natives. I think, even if the local magistrates had the power given to them, they could not exercise it; there would be so much obloquy annexed to it, so much scrutiny of their proceedings, so much jealousy entertained against them, they could not venture to exercise such an authority.

296. Are the difficulties to which you allude in any degree felt with regard to Europeans now settled in the interior; and if not, why not?—They are felt at present, but not in the same degree, inasmuch as there are not the same number of settlers, and as the local tribunals exercise a very limited jurisdiction over Englishmen; higher cases are required to be submitted to the Supreme Court at the presidency, which in many instances amounts to an absolute denial of justice.

297. If the administration of justice, in the case supposed, would be objected to on the part of the European settlers, do you conceive that it would not now be reasonably objected to on the part of the natives who are actually subject to the jurisdiction of the country courts?—Not, I think, in the same degree; but to a very great degree I consider that jurisdiction defective.

298. Then you do not conceive, that for the interests of the natives, and without any reference to the increased introduction of European settlers, the system of these country courts ought to be improved?—Certainly; but the improvements, according to my notions, would render the tribunals still less adapted to the trial of English settlers, for the improvement ought to consist mainly of the transfer of the existing judicial duties to natives.

299. Could it not be provided that the permission to Europeans to settle in the country should be restricted by the condition, that they should submit to the jurisdiction of the country courts, or submit to their jurisdiction in all but a few special cases, of a very serious nature?—If all cases of a serious nature were excluded from the jurisdiction, the provision, I think, would be extremely incomplete; but I apprehend the consent of the parties would not have the effect of obviating the objections. I think the public feeling would be outraged by the idea of an English settler being liable to be tried for his life by a native of India; and I think gentlemen from this country, such as compose the civil service, if the Legislature gave them the power, could not venture to exercise it; they would shrink from their duty.

300. Would it be possible, that in the case of Europeans, or even in case of natives, juries might to any extent be employed in these country courts?—If a good

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a good system of jury trial could be introduced, that would obviate the evil; but I apprehend there would be as great difficulty in establishing a system of jury trial as in improving the present system, for the purpose of rendering it applicable to the trial of English settlers.

301. Do you think, that if native juries were established in India, that they would be apt or otherwise to decide exactly as directed by the judge; do you think that the judge would have more than a proper influence over the jury in respect of their decisions?—In some cases I dare say he would have too much, and in others too little. On the subject of native juries, I beg to refer to my letter before the Committee, of the 30th of January.

302. Do you think that the natives of India could safely and beneficially be entrusted with the exercise of the duties of justices of the peace?—Over the natives; I have not the least doubt, on the Madras establishment, there is a supply of competent natives for the exercise of those duties over the natives.

303. Do you think that they could be entrusted with the exercise of those duties over Europeans?—I think it is very desirable, if Europeans settled in India, that natives should possess that power; I think it would be liable to be abused, but such instances might be corrected.

304. Do you think that the natives could have or acquire a sufficient knowledge of English law to administer that which a justice of the peace does administer to Europeans as well as natives?—I have not the least doubt that they could.

305. Do you think the natives would be gratified by having one of their own countrymen exercising the duties of a justice of the peace?—Throughout the provinces there is little scope at present for such authority; there are very few Europeans; I do not think it would be satisfactory that they should exercise it over their masters.

306. But in criminal jurisdiction, similar to that of a justice of peace, do you think it would be satisfactory to them to have that justice administered to them by a native?—I doubt whether it would at present; I rather think they would prefer the power being in the hands of the European officers of government.

307. You think they would have more confidence in having criminal justice administered to them by Europeans than by natives?—My impression is, that the natives would have much more satisfaction, and that justice would be much better administered, if the European judge had the aid of native assessors. My opinion is, that the European judge is not competent, without the assistance of natives, to ascertain the facts of any intricate, complicated case.

308. You are aware the system of criminal law in India is chiefly Mahomedan?—The Mahomedan law has been so much modified by our Regulations as to exist more in form than in reality. It is now proposed at Madras to discontinue altogether the Mahomedan law in the administration of criminal justice.

309. It is the same criminal law that is administered to the Hindoos and Mahomedans?—The same.

310. In all the courts there is a law officer, the muhlvie, who sits and assists the judge in the investigation of matters of fact?—According to the theory of the court, rather in matters of law; the fact is to be found by the English judge, and the Mahomedan law officer is then desired to state how the law applies to the fact, as found by the judge.

311. His futhwa is in the nature of a verdict?—It is rather in the nature of a judgment of what the law is as applied to a given state of facts.

312. Does not his futhwa embrace the fact as well as the law?—It does, because the fact turns on the law: he states what witnesses are inadmissible, and what are not entitled to full credit; but the judge sets aside his scruples, and says what evidence he must admit, and in reality what facts he must take to be established.

313. He sits during the whole of the trial with the judge?—Yes, in serious matters; in minor cases the magistrate sits alone.

314. Did your plan embrace a continual change of persons as assessors, as we in this country have a continual change of persons as jurors, or did you mean that there should be some permanent persons to be employed as assessors, and to be in fact judges?—My views hardly went the length of amounting to a plan; but I was of opinion at the first it would be preferable that the number of those assessors should be limited, till a certain body of assessors were trained to their new functions.

315. Do you mean that there should be a certain number of persons from time to time summoned to discharge the function of assessors?—My idea was, that the country

country should not return a panel of jurors, but that there should be a very limited number selected by the officers of government, as being likely to exercise the new function in a satisfactory manner in the first instance, and that the system should be extended if the experiment was successful.

316. Your former answers suppose that the system by which the judicial situations in India, so far as Europeans are concerned, are now filled, is to continue; but supposing that system to be so far modified that the persons selected for judicial appointments should be selected from a larger number, from Europeans possibly resident in the country for other purposes, or in any way so as to give a larger field for selection, do you then suppose it would be impossible to provide for some system of justice that could embrace both natives and Europeans in the interior of the country?—It would be impossible to establish judicatories that could sufficiently administer civil and criminal justice over the very limited number of English settlers who under any system could be found in India.

317. Might not much greater care be taken to qualify for judicial situations in India those Europeans who are to fill them up?—I do not think they would be much fitter for the purpose if they were qualified in the highest degree; if they could be lawyers, for instance, sent out from England: with the very limited functions they would have to perform, they would hardly acquire the judicial character.

318. But you speak of young men, just going out as writers, being put in situations where they would have to administer justice to the Europeans, and then they would be jealous of that sort of jurisdiction; might not that evil be obviated if the judges were selected from a somewhat different class, and if their qualifications were better secured?—If there could be as many supreme courts, or courts of the same character as the present zillah courts, then the particular objection that has been in view would not exist; but other objections, much more conclusive against the system, would rise up. The expense would be ruinous, and I apprehend the system of English law, administered over a conquered country, or a country held as India is, would be impracticable.

319. Without supposing such a change of system, and supposing the system in other respects to be the same, might you not, by securing persons better qualified to fulfil the judicial functions, obviate the difficulty of subjecting Europeans to the rule of the country courts?—I do not imagine that the Company's civil servants are particularly ill qualified; I think it is only the circumstances of the situation that render their qualifications so extremely defective as they are; I imagine they are as well qualified as, under the same circumstances, any substitutes for them would be likely to be.

320. You are aware that no means are now taken to qualify persons to discharge the judicial functions of the interior, except the merely mental instruction given to the students at Haileybury?—That, and the preparation they go through for years after their first arrival in India, by mixing among the natives in the discharge of revenue duties, is a better education than could be obtained by more professional means. They are fitter for the duty of country judges than members of the profession from Westminster-hall, distributed over the provinces of India.

321. Do you think there would be no advantage in providing some direct instruction in India for the writers who are to fill judicial situations which they might combine with the advantage of serving in the revenue department?—My belief is, that the idea of a selection out of a limited body, like the civil service in India, is quite impracticable; the effect of it would be to make those excluded from the selection more unfit for the remaining duty. It is quite impossible to select and train up a particular class out of such a body for specific duties; it is better as it is, when they are generally qualified in a proper degree for all the functions they may be called on to perform.

322. You know that in Bengal that division does obtain?—I do not think the Bengal so good as the Madras system.

323. You know there is a training for those who intend to follow the judicial line?—They are confined to that one line; there is not otherwise much training. The Bengal officers, I believe, admit that the local functionaries are more efficient in the Madras establishment.

324. You mean the revenue officers?—District officers; I do not know that they are so well read in the Regulations.

325. Do you think it is the impression in Bengal that justice is better administered under the presidency of Madras than Bengal?—I do not know that it is *their* impression; it is *mine*.

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326. You think that is very much to be attributed to their being employed, in the first instance, in the duties of the revenue?—I think so, certainly. There is a very admirable short minute of Sir Thomas Munro's, recommending that young men, on their first arrival, should always be employed in the revenue line; and in that he points out the unfavourable impression such minds must take up of native character, where it is exhibited to them only in the light of adverse suitors; they learn nothing of the condition and character of the inhabitants of the country, and have no sympathy with them.

327. Let it be supposed that, instead of appointing a given number of young men to India, a greater number be appointed, and that either in this country or in India the fittest out of that number should be selected to fill situations of importance; do you conceive that any advantge would be gained to the service by such a system?—I do not think the selection is practicable in this country; it is impossible to tell how a young man will turn out. They are at present examined as to general education, as to having received a liberal education, and as to general capacity; beyond that, it is impossible to discover their qualifications. It very often happens that young men who distinguish themselves most in their studies, do not distinguish themselves afterwards as public officers; that their turn of mind is more towards words than things. The selection in India is impracticable, unless young men whose fate has been already decided are to be thrown back on their friends at last. There is only one practicable mode of selection of which I am aware; it has often occurred to me, and has been suggested by me in India, but it is liable to great objection. It is this: the whole public service of India, civil and military, could be thrown into one body, and a selection made out of that general mass in India. My idea was, that every man should be in the army for the first five or ten years; that he should bear a sword; and that after that period, the government, under certain restrictions, should select those who showed talents and other qualifications, such as temper and knowledge of the languages. There are great objections, and very obvious ones to the arrangement; but I am not aware of any other method by which a selection on a large scale could take place.

328. Upon an average, at what age do young men go out to the civil service from this country?—Between 18 and 20.

329. Now, you know that in this country a profession of a young man is chosen; if he is intended for the law, his profession is chosen before the age of 20, is it not?—I think it is so.

330. But might there not be, before they went, a selection; if they do not go till 20, might they not select a particular line?—Young men choose those professions before 20, but nobody can tell if they will succeed in them.

331. You think that principle of ascertaining qualifications by examination could be applied more essentially than it is in this country?—I do not consider any improvement necessary, for the young men are remarkably well educated; a great improvement has taken place within the last 20 years.

332. Do you mean to say that the system of education at Haileybury has been found to answer?—The system of education has been found to answer; the institution has been attended with a great many disadvantageous circumstances, but not in respect of education.

333. Do you think that, in order to furnish persons with education to discharge judicial functions in India, it might be desirable to prolong their stay in this country beyond the present period, to obtain instruction?—On the contrary, I would send them out young; they otherwise come out with a distaste for banishment and for native character. The great evil to be contended against is a dislike to their duty, to intercourse with the natives, and to separation from their countrymen.

334. In what manner would you obtain a knowledge of the general principles of jurisprudence, in order to qualify them for the judicial office?—As a part of general education, if it is required in a higher degree, and not obtained under the present system. One advantage must be set over against another; on the whole, I think the present system operates more beneficially than that of detaining them in this country for professional education.

335. Retaining them in this country for the purpose of instruction, would necessarily render them less fit to attain a due knowledge of the languages in India before they enter on the judicial functions?—Probably it would in some degree.

336. Do you think they could obtain in this country a sufficient knowledge?—No, I think not.

337. Arriving at a later period, they would have less aptitude for learning the languages of the country?—In some degree.

338. Not very considerable?—I think not.

339. Is there any period after their arrival in India, before which they cannot be appointed to office?—The rules have varied; the rule at present is, that a young man cannot be employed at all in public duty until he has been about two years in India.

340. Is there any other rule as to employment in a judicial situation?—I think there is; but those rules have varied, and when they have remained, they have not always been observed.

341. In whatever manner the qualification of the young man going to India is secured in this country, whether by giving him a certain course of education, or by subjecting him to a public examination, or by uniting both those methods, do you not conceive that if the numbers that went were selected out of a larger number, the amount of qualification in the whole would be better secured than by the present system, which appoints exactly so many as the service in India is supposed to require?—The advantage would not be obtained without paying for it, if you prepared twice the number that was required, or whatever the excess might be; but the advantage which would be obtained would only be that of scholarship, or a better promise on the part of the young men: how far they might possess good sense and talents for the affairs of human life and for public business, with temper, discretion and moral qualities, all that would be left still to chance; and if they went out with an idea of being better than their fellows, something would be lost as well as gained by the selection.

David Hill, Esq. 26 March 1832.

Veneris, 30° die Martii, 1832.

THE RIGHT HONOURABLE ROBERT GRANT, IN THE CHAIR.

David Hill, Esq., called in; and further Examined.

342. ALLOW me to ask you, on the supposition that there was an increased number of Europeans resident in India, do you think it would be impossible to frame a system of judicature which should have jurisdiction over both Europeans and natives?—I have reflected more on the general question, in consequence of my last examination, but I am confirmed in my impression of the impracticability of the measure. I conceive it would be desirable, and very easy to establish a legislature in India upon improved principles, for framing the regulations for the country courts, and on an emergency for framing laws to regulate the proceedings of the supreme courts also, subject to ulterior sanction in the mother country; but it seems to me that, under the most favourable circumstances, the measure of rescinding the whole system and provisions of the law of a community, and framing a new system and new provisions in their stead, would be attended with infinite difficulty, and be exposed to the greatest hazards of omission and collision, which could only be ascertained by experience. I think the difficulty very much aggravated by the complicated nature of the provisions of English law, as being adapted to a highly civilized and very old country. There are other difficulties that are very strongly put in a particular paper of Sir Charles Grey's, relative to points that either have not been settled, or have been settled in contrary ways at different periods and by different authorities. There would be also additional difficulties from our very imperfect knowledge of the provisions of some of the systems of law we should have to rescind and to re-establish, provisions of the Hindoo and Mussulman law. We have a very imperfect knowledge of landed tenures throughout India: they would require to be provided for also. Then there comes the difficulty most present to my mind on a former occasion, which seems to me to be of itself nearly insuperable, the difficulty of establishing a system of judicature capable of administering the law over both European settlers and natives. There is another circumstance which might either be considered as a difficulty or a facility. My impression has long been, that the government of a country held as India is, must exercise a control over the administration of the law. Whether that would facilitate the adoption of the scheme suggested, or be an additional obstacle in the way of it, may be matter of doubt.

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343. To what species of control do you advert?—I mean merely that the system of judicature in a country held by the right of conquest, and by the power of the sword, cannot be left independent of control. There is no public opinion to control it, and it may, with the best intentions, operate in a manner totally at variance with the whole end of the government of the country, and with the system on which the administration of its affairs is conducted.

344. Would it be necessary that the judges should in all cases be removable at the pleasure of the government?—My objection is quite of a different nature; I mean, that the judges, in the faithful discharge of their duty—

345. Do I understand you to say, that the judges of every kind should be removable at pleasure?—That is not what I alluded to; it was, that the government ought to possess the means of staying the proceedings of the courts of justice.

346. Do you mean to say that they should have some powers which they do not now possess?—Some powers that they do not now possess.

347. Have you thought at all of the detail or mode in which such a power could be exercised?—My general impression is, that the decrees of the ultimate tribunal ought never to be executed without being previously made known to the government, that they may interpose their authority if they see occasion, if the safety of the state and the general welfare of the community makes it necessary.

348. Do you mean that remark to apply to all judgments of the Supreme Court, or only to such as are of a political character?—By the Supreme Court, I mean the jurisdiction in the last resort. Unless all judgments were submitted, it would not be within the competency of the government to interpose their authority in cases that required such interposition.

349. You proceed on the supposition that there is one system of judicature for the whole country?—My observation is more applicable to that; but it has a certain degree of application to the constitution of things in the King's courts as it now exists. It would only be in very rare cases that the government would find ground to interpose its authority, or be justified in exercising such a prerogative.

350. Has any practical inconvenience resulted, within your knowledge, from the absence of such control on the part of the government?—With respect to the country courts, certainly there has.

351. In what cases do you think it would be within the competency of government to interpose their authority?—With respect to the country courts, I have alluded to cases that have had the effect of exciting rebellion in the part of the country to which they applied.

352. And on great public questions?—On great public questions, or on principles that grew up to be public questions afterwards, and affecting great interests. Sometimes it is a principle established by a decision which, when it comes to be generally applied, produces a great effect on the political system of the country.

353. Could you instance more particularly?—It was settled by a construction of law, that zemindars were capable of levying a certain branch of revenue called *mohturpha*, even with the sanction of the government; and by another construction of law, the object of taking confessions of prisoners was completely frustrated. Again, by the execution of legal process, rebellion was at different periods excited in two principalities in the Ganjam district, viz. Goomsoor and Moherry.

354. What, in your opinion, should be the constitution of a legislative council in India, and of whom should it consist?—I am afraid there are no other materials for such a body except the members of the government and the King's courts: it would be desirable, I think, to give it a broader foundation, if there were the means of doing so.

355. Would it be possible to include persons having no connection otherwise with the government, who should be considered in a similar sense as if they were acting on the part of the native inhabitants?—I conceive that there are no parties in India capable of protecting the rights of the natives, as things now are, excepting the public functionaries, who would be represented properly and adequately by the members of government.

356. Will you state any general ideas that you have either upon the functions or constitution of such a council?—I am not aware that I have any further ideas than to express my perfect concurrence in the views adopted by the judges of the Supreme Court on that subject, as distinct from the further question of new modelling the law of England and the law of India, and of framing a substituted system out of them.

357. Do you think it would be open to no objection, to invest the judges with legislative functions?—If it be open to some objection, I think, upon a balance, it would be attended with very great advantage. I think the system at present is totally unfit for the purposes of legislature. The acts of the legislature are merely acts of the executive government, and are framed in the same precipitate manner, on the urgency of the occasion.

358. Are not certain of the Regulations submitted to the judges of the Supreme Court, before they are carried into effect?—The Regulations for the good order and civil government of the three presidencies require the concurrence of the judges of the Supreme Courts respectively, and the judges of the Supreme Court of Calcutta have also construed the law to render their concurrence necessary in passing Regulations for imposing additional duties. The Regulations for the country courts require no concurrence on the part of the Supreme Court, but are passed by the sole authority of the Indian governments.

359. What do you conceive would be the advantage of a legislative council?—I think the first advantage would be, that the duty of legislation would be performed in a much more deliberate manner. The next advantage would be, that with the aid of the judges, the principles of law and of justice would be much more regularly observed than they are likely to be by an executive government, which legislates on the impulse of the moment.

360. Do you not also conceive, that in certain cases the delay and circuity of a reference to Parliament would be saved?—My answer had reference to the Regulations for the country courts. With respect to the Supreme Court, there is a third advantage this question points out, which in effect would supply a great deficiency in the present system of legislation: the delay is so great as to amount to an absolute obstruction of legislation. One Governor-General, Lord Minto, at the end of his government, when on his return to England, stated to me, that owing to distance and delay, he found it to be impracticable to obtain legislative enactments on points on which there was not the least question as to the propriety of their being passed.

361. Did the unfortunate disputes which took place at Bombay between the government and the judges, attract much notice in other parts of India?—Not generally through India; not much at Madras, even in English society; at Bombay of course it did, and I believe also in Calcutta, where they have a much greater turn for political discussion.

362. Are you aware whether the question had arisen at Madras, whether the Supreme Court had power to issue writs of any kind into the provinces?—I think not. In argument it may; but practically, I think it had not arisen. There were legal methods by which matters adjudicated by the country courts were brought within the jurisdiction of the Supreme Court: this was by the dextrous management of the practitioners in the Supreme Court, and not by any encroachment of the court itself, or desire to extend its jurisdiction.

363. Is there a disposition in the natives of India to look to the Supreme Court as a sort of defence to them against the government?—At the Presidencies, very likely, as there it is the only jurisdiction; throughout India, certainly not; in the provinces, certainly not: I do not believe generally they know anything about the matter; but where they do, I imagine they only look on it with terror, as an unseen instrument likely to involve them in ruin; I fancy they generally know nothing about the matter.

364. Your observations are confined to the Madras presidency still, are they not?—I have probably taken a wider range in some of my answers, for my means of loose information were gathered chiefly at Calcutta, during my last residence in India.

365. When you say that you should suggest that the judges should have legislative powers, do you mean that it should only be a sort of superintendence over legislative enactments?—According to the projected scheme, the judges were to be constituent members of the legislative council; and the majority of the judges were, in certain cases, to possess a description of veto in the exercise of its authority, in cases where they stated their opinion to be, that the proposed enactment was at variance with the law of England.

366. Would they have time to exercise that judicial legislative power?—As to framing a new code in lieu of the codes to be extinguished, I imagine that would not have time, neither they nor anybody else; but for substituting this mode of passing Regulations for the country courts for what exists now, and also for the

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passing emergent laws to regulate the proceedings of the Supreme Court, pending a reference to the authorities in England, I imagine they would have abundance of time; probably it would save them time in their judicial functions.

367. You are aware that the idea is entertained by many persons, that the introduction of European settlers into India is not only practicable but would be advantageous; are you able to state to the Committee any general ideas upon that subject?—The advantages to arise from the settlement of Europeans in India have been wonderfully exaggerated: I estimate them very low indeed. The process used to go by the name of Colonization; now, I believe, the principal recommendations of the scheme are considered to be the transfer of British capital, and skill and enterprise, for the purposes of drawing forth the resources of India. I have no conception that any British capital would ever find its way to India: it never did when the temptation was much greater than it can now be expected to be; and the distance of our empire, the uncertain tenure by which we hold it, the alarms connually springing up as to events endangering its stability, will effectually prevent British capitalists from transferring their funds to India. In that case, there remain only the skill and enterprise of Englishmen. According to my conception, they will be very far behind the natives in most departments to which skill can be applied. There are physical difficulties in the way of their undertaking manual labour, which must exclude them from being agriculturists or mechanics in India; for I imagine that a farmer who never held the plough in his hand, and who was transferred to a country where the climate, and the system of agriculture and the products of the earth are all different from what he has been accustomed to, could never cope, in point of skill, with the natives of the country. I imagine that the ryots of India are much better husbandmen than European settlers would be. So it would be as to mechanics also. There remains only the object of stimulating and directing the exertions of the natives themselves; an object which falls very far short of the sanguine expectations of the advocates of the system of free resort of European settlers to India, and an object which, under the present system, seems to me to be attained to its full extent, or under the present system admits of being carried to any further extent which may be deemed necessary. Then there will arise objections to the system connected with the bad characters which would go: if none but good characters went, they would be doing harm to themselves, but would not do any harm to India. A man of good conduct and capacity could not injure India; but my impression is, that as it would be a bad speculation to the settlers, many would forfeit the good character they took out with them, and many others would find their way to India who were bad subjects, difficult to govern, and not capable of conferring any benefits on the country they visited.

368. You are aware that the Company have generally been averse to the principle of exporting British capital to India?—I am not aware of that.

369. At what period was there more facility or temptation for exporting British capital into the provinces of India than at this moment?—When the rate of profit was much higher than it now is, or is likely ever to be again; when with the greatest ease 20 per cent. might be made in the money market of India, where five or six now is a fair remuneration.

370. Did not the system of the Company, by impeding Europeans from settling in India, oppose obstructions to the introduction of European capital into that country?—Probably the obstructions to the resort of Europeans may, in some measure, have tended to prevent British capital from being transferred there; but I should think, if the inducements had been sufficient, there were no obstructions that would have been effectual.

371. Are there now Europeans in the presidencies who, if greater facilities were allowed, would engage in agricultural or manufacturing speculations in the interior of the country?—I am not aware that there are, or that there is useful scope for a greater number. I think they would supplant better men in the persons of natives who are now employed in those pursuits.

372. In point of fact, are there not many Europeans at the presidencies who are calling out for greater facilities?—There are a great many more Europeans in India now than can find useful employment.

373. Are they not cut off from a great variety of the employments of the country?—I think not: they are prevented from acquiring real landed property.

374. They are not allowed to move freely in the interior of the country?—As long as they behave themselves well, I think they are. They are not allowed as

matter of right, but in practice there is no difficulty, so long as they are supposed to conduct themselves well.

375. Do you think that any advantage would arise from conferring upon the half-caste race any rights or privileges which they do not now enjoy?—If they are not allowed to acquire landed property, I think they ought to be. They have a much better claim to consideration than European settlers, for it is their native country; but I am not sufficiently acquainted with any obstructions in the way of their prosperity, to say what relief they require; I think they ought to be placed on a footing with the natives of the country.

376. When you say that in some cases Europeans, if allowed to go into the interior, might supplant the natives, how do you reconcile that statement with your former opinion, that the natives generally will be found to cope successfully with the Europeans in regard to the produce of the interior?—Still I conceive that through the patronage of their countrymen, connection by blood, or by friendship, or recommendation, they would be preferred to situations that might be more fitly occupied by natives. I think that the labours of the land must still be performed by the natives, for the constitution of an European physically incapacitates him from taking the place of the native; but there are higher situations which are at present filled by natives that might be transferred to Europeans, through favour shown to them by their countrymen.

377. Where does the capital employed by the indigo planters come from?—It is accumulated in India exclusively.

378. Then what part in the undertaking of the indigo plantation does the British settler act; is it his skill, or what is it?—I think it is his enterprise in the direction that he has given to the labours of the people; he has found out a commodity which has been profitably raised.

379. Europeans having settled in India, and made establishments there for the plantation of indigo, contemporaneously with that there has been a great increase of indigo, and great good has resulted to those parts of India from it?—This result has followed from the present restrictive system, and has been carried to the utmost extent, so that indigo is now at a price that does not remunerate.

380. At the same time, the average result on the whole has been that of an extended cultivation, and great good to those parts of India where it has been carried on?—That has arisen under the present restrictive system.

381. Do you attribute that to the restrictive system?—Not to the restrictions of the system; the indulgence is quite compatible with the operations of the present system.

382. Do you mean that the law should be made different so as to grant them more indulgence, or without any alteration of the law, would you wish for a further introduction of Europeans into that country?—I believe that little or no alteration of the law is necessary, for the present system is sufficient for the purpose.

383. Are there not other products which might be cultivated with considerable advantage, if they were undertaken and prosecuted by English skill and capital?—According to my conception, Europeans could do nothing to promote the more skilful culture; they could not prepare the ground for cotton. The European merchants at Calcutta have tried the rearing of cotton and sugar with very little advantage to themselves.

384. Has the import of East India cotton into this country increased?—It has fallen off very much.

385. Why should not the same principle apply to the cultivation of cotton, as has been found practicable in the case of indigo?—I imagine that the climate and soil are not adapted to the produce of cotton and sugar, in comparison with the other quarters from which supplies are drawn.

386. Did you ever hear the opinion of any manufacturers at Manchester, or any person in the habit of importing cotton to Liverpool, on this subject?—I am not aware that I have; I believe Indian cotton is held in very low estimation.

387. What is your idea with respect to giving Europeans power of holding land in India?—I see no possible benefit to accrue from it, and a great deal of embarrassment.

388. If they held the land by the tenure which it belongs to, what embarrassment could be the consequence?—I do not see how they could. If English tenures and Indian tenures were once mixed together, I think that a question already very difficult would be made still more so; and I see no advantage that would arise from it.

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389. Would a law authorising them to hold land in India produce any positive mischief?—According to my apprehension, it would. The English settlers belonging to the ruling party in the state, would have influence enough to have laws framed and executed so as to favour them at the expense of the landholders, who belong to the conquered part of the community; and in that way I think it would be a serious evil to India, a wrong committed against the natives of that country, and for no advantage, as far as I am aware. They have the fruits of the land as it is; and, considering what physical disadvantages they labour under, and what political evils would ensue from allowing a free resort of Europeans to India, I think nothing would be gained, and only loss would be incurred by changing the law in that respect.

390. It would not follow that, because they were admitted to hold land, they should be permitted to have an indiscriminate resort of Europeans into the interior?—It is not a necessary part of the system; still it does form a part of the scheme.

391. Have many disputes arisen between the indigo planters and the natives?—There are constant disputes.

392. What is that attributable to?—It is not easy to say; it seems to me very like the condition of society in Ireland, where the law derives no aid from popular feeling; there is continual warfare.

393. Is it owing to the misconduct of the settlers?—That has only an accidental share in it; that is not the root of the evil. It seems to originate in the necessity of making advances to the poor cultivators; and then the produce, which ought to be delivered in return for those advances, is bought up by some interloper, and armed parties are taken out to carry it off by force, or repel the intruder.

394. Does it result in any degree from the uncertainty of the proprietary of the land?—The disputes regarding boundaries are very frequent.

395. Has the settlement of the indigo planters been productive of benefit to those portions of India where they are settled?—I have no means of knowing myself, but I have understood it has. The appearance of the country has improved; I believe the condition of the people has not. The land is more highly cultivated.

396. What is the general feeling of the natives as to the administration of justice by the country courts; is it a feeling of confidence in these courts, or otherwise?—Not of satisfaction, certainly; they have been generally felt to be extremely irksome; I mean the zillah courts.

397. What is the nature of the improvements that you would suggest in the constitution of these courts?—My general impression is, that all justice ought to be administered by the natives themselves, who are much more competent to do it, and who would do it on more easy terms than it can be supplied from any other quarter.

398. What is your opinion as to appeals?—My general idea as to that is, that the English officer ought not to exercise the appellate jurisdiction, but when necessary should direct a new trial, transferring the cause to another native judge; that the British superintendent, if he sees fit on any ground, should, without going himself into the merits, order the cause to be tried again by a higher tribunal, in the nature of an appeal, or by the same or another tribunal, in the nature of a new trial.

399. This is a principle recognized already by some of the native courts, is it not?—I am not sure that new trials are in practice with us, which would be a great improvement; I think they are always appeals.

400. Is not there a power of some superior court sending back the case?—I am not certain as to that; I think there is a great defect in the system of appeal generally in India, but I am not lawyer enough to be sure that my notion is correct. The whole evidence is recorded, and the superior court reads over that which the original court has heard, and comes to a conclusion, not upon any particular point of fact or of law that has been excepted against by the losing party, but on the whole merits of the case; the appellate court tries on reading the same evidence as the original one tried on hearing.

401. You have already been asked with respect to the age at which you would send young men to India?—I think I stated before, that I did not imagine it would be an advantage that they should be kept longer in England than from 18 to 20; I think that would not be an improvement.

402. Suppose a system by which young men of apparent talent for the legal profession

profession should be selected, and should have education in the principles of general law in England for a year or two, and then that their knowledge should be perfected in India for a year or two, by a more particular application of the principles of the law of that country; do you not conceive that that would effect a very material improvement in the general administration of justice?—Not according to my idea; I conceive the improvement that is necessary in our judicial system in India is to transfer the functions of judges to natives; I conceive also that the great *desideratum* in the office of the public functionaries of the Indian government is a knowledge of the native character, language and manners, and a sympathy with the people among whom they are to live, and a taste for their official duties; I am quite convinced that all these advantages would be forfeited by high legal attainments.

403. Could not the two qualifications be made compatible in a greater degree than they appear to be at present?—The general qualifications might perhaps be attained in a higher degree by greater care in the selection of young men sent out to India; the legal qualifications would be a little or no advantage, according to my view, as I conceive the legal functions ought not to be in the hands of European functionaries; that it would be totally impossible to pay an adequate number, and if obtained, they never could be so competent to perform the duties as natives, who might easily be instructed in them.

404. In what way would you employ Europeans in the administration of justice in the interior of the country?—I would merely make them, in the administration of justice as in every branch of civil administration, the links by which the system of internal administration is connected with the government of the country.

405. Have you at all calculated what would be the reduction of the number of Europeans now employed in the judicial department?—According to my recollection regarding the Madras presidency, there have of late years been about 30 judges in our districts; independently of these judges we have assistants, called registrars, who are totally unfit, in my estimation, to exercise judicial functions, being too young and inexperienced. Instead of having about 30, according to my impression, 20 would be ample, which would make a reduction of one-third.

406. And do you think, besides the saving of expense, the object would be better accomplished?—I am quite convinced it would, and that 30 accomplished natives would do a great deal more than 30 Europeans, such as can be obtained.

407. How would you effect the transition from the present system?—It is in progress already at Madras.

408. Has there been a diminution in the number of persons sent out?—Yes, there has.

409. Do you think that experiment would be injured by the free resort of Europeans into the interior?—I think that this improved system would not be applicable to such a condition of society.

410. You could not carry into effect the proposal of having native judges, if Europeans had a permanent freedom of settling?—I stated that impression on my last examination.

411. And you stated that the younger persons go out to India the better?—Not to that extent; but it is desirable that they should go out young.

412. Suppose they go out very young, do you think it would be best to employ their previous time which they pass in England in studying Indian institutions, or Indian law, or the Hindostanee language, or acquiring general knowledge?—Certainly, general knowledge.

413. If Europeans are to exercise this sort of controlling or superintending power over native decisions, ought not they to learn some general principles of jurisprudence?—I think, if you could get that without losing anything else, it would be all the better; but I consider it a very secondary qualification for a ruler of the land.

414. Have you any further suggestions to offer to the Committee relative to the improvement of the system of judicature in the administration of India?—My views are of a very simple and summary description. I conceive that throughout the provinces justice ought to be administered by natives, who are to be found perfectly competent to the office; that there should be a gradation of native judicatories, one class having jurisdiction over another; and that the operations of the whole should be superintended by British functionaries, who should connect the system of internal administration with the government which rules the empire. I ought to explain, in the way of apology for some of my notions, that I look upon

David Hill, Esq. 30 March 1832.

India entirely as a conquered country, which cannot enjoy the advantages of a constitution of balance and check among its several parts, but must be kept under an absolute government. I conceive that all ideas of perfectibility in its institutions are quite inapplicable to the condition of the case. My impression accordingly is, as I have stated on another occasion, that no system ought to be rejected merely because it has a great many faults, as I am quite aware my scheme has. I think our position in India so forced and unnatural, that all our institutions must be extremely defective. They are only enthusiasts, as the advocates of some particular system, who imagine for the time that they have found out one that is faultless. In judging of any one of the plans for assessing and collecting revenue, for administering justice, for preserving peace and good order, we must first weigh its defects against its merits, and then against the defects of any rival plan; the best we shall have in the end will be a balance in favour of what we prefer.

415. Since your system supposes the more extensive employment of natives in the administration of justice, do you suppose that the effect of such an extended employment of natives would be, by whatever gradations, to ultimately throw the government of India into the hands of the natives?—My views on that point are, that the natives ought to be brought forward in the government of their own country, as far as they are capable of being so by their moral and intellectual qualifications, subject only to the security of the empire, so long as we are to retain it. My views would therefore bring them forward certainly in the administration of the affairs of the country, but would not have the effect of placing political power in their hands.

416. Supposing them to improve in general intelligence and knowledge, do you conceive that the effect would not be to endanger the stability of the British power?—If that effect naturally resulted from a more liberal system towards the natives, I think it is a consummation most ardently to be desired. I do not think the measures I have suggested would be likely to place power in the hands of the natives before they were fit to use it. I have no conception that any English statesman, who turns his attention to the subject, would for an instant entertain the idea of keeping India in a debased and degraded state, in order to perpetuate or prolong our empire.

417. On the contrary, you would be prepared to suggest a system which might ultimately have the effect of completing the transition of power from our hands to those of our present subjects?—That I should think a most desirable result, but I see no prospect of it.

418. Do you conceive that there has been a very remarkable change within the last 30 years in the character of the natives and their intellectual acquirements, or at least of those of the natives who are connected with the presidencies?—In some respects; at Calcutta, for instance, there is a marked improvement in the system of European education among the natives; but I should not think their intellectual faculties are much improved; these are shown to most advantage in natives who have generally had little intercourse with English society. The ablest natives are those who do not know the English language.

419. At the presidencies, have they not in some measure learned to criticise the proceedings of government, and to entertain and deliver opinions respecting political matters?—In Calcutta they have to a limited extent, but sometimes it is done by Europeans in their names.

420. That has not been done in the presidency of Madras?—Not more than was done 30 years ago.

Martis, 3° die Aprilis, 1832.

ROBERT CUTLAR FERGUSSON, ESQ., IN THE CHAIR.

Holt Mackenzie, Esq. called in; and further Examined.

Holt Mackenzie, Esq. 3 April 1832.

421. HAVE you brought with you a translation of the Persian statement to which you referred in your last examination, respecting the expenses of suits in the different courts in India, the Zillah, the Provincial, and the Sudder Courts?—Yes, I have.

[*The Witness delivered in the same. Vide Paper* (A.)]

(A.)—Cost of Suit and Defence in the Zillah Court.

COST OF THE PLAINTIFF.

THING SUED FOR.	Value.	Institution Stamps.	Miscellaneous Stamps.	Pay of Peons and Ameens.	Vakeels' Fees.	Witnesses' Maintenance.	TOTAL.
	Rupees.	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*
150 Begahs of Land paying Revenue -	930	50	9	80	46	9	194
A Talook - - -	129	8	11	15	6	- -	40
250 Begahs of Alluvial Land - - -	250	32*	13	13	12	6	76
300 Begahs of Land -	525	32	64 ½	3 ½	26	35	161
Share of a Talook -	673	32	24 ½	23	34	7	120
Debts - - -	840	50	13 ½	5	42	- -	110 ½
Ditto - - -	1,664	100	8 ½	1	83	- -	192
Ditto - - -	1,000	50	9 ½	- -	50	- -	109 ½
Ditto - - -	1,262	50	15 ½	1 ½	64	- -	131
Bond Debt - -	1,500	50	12	- -	75	- -	137
Rent-free Land - -	686	32	14	5	34	- -	85
Ditto - 77 Begahs -	631	30	26	99	32	21	207
Ditto - quantity not specified - -	1,647	60	13	1	75	4	154
Ditto - ditto -	527	25	5	5	26	4	65
Ditto - ditto -	1,237	51	16	1	61	- -	129

* There appears to be some mistake here; the proper stamp being only 16 rupees.

COST OF THE DEFENDANT.

THING SUED FOR.	Value.	Stamps.	Pay of Peons and Ameens.	Vakeels' Fees.	Witnesses' Maintenance.	TOTAL.	TOTAL of both Parties.
	Rupees.	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*
150 Begahs of Land paying Revenue -	930	22	5	46	17	90	284
A Talook - - -	129	6	- -	6	- -	12	52
250 Begahs of Alluvial Land - - -	250	- -	- -	12	- -	12	88
300 Begahs of Land -	525	32 ½	2 ½	52	- -	87	248
Share of a Talook -	673	21 ½	13	34	6	74	194
Debts - - -	840	- -	- -	- -	- -	- -	110 ½
Ditto - - -	1,664	9	- ½	83 ½	- -	93	285
Ditto - - -	1,000	17 ½	4	50	- -	71	180 ½
Ditto - - -	1,262	11	1	64	- -	76	207
Bond Debt - -	1,500	2	- -	75	- -	77	214
Rent-free Land - -	686	16	- -	34	32	82	167
Ditto - 77 Begahs -	631	20	108	32	-	164	371
Ditto - quantity not specified - -	1,647	5	- -	75 ½	- -	81	235
Ditto - ditto -	527	15	- -	26	- -	41	106
Ditto - ditto	1,237	18	- -	61	- -	79	208

Holt Mackenzie, Esq.

3 April 1832.

Cost of Parties in the Court of Appeal.

APPELLANT.

THING SUED FOR.	Value.	Institution Stamps.	Miscellaneous Stamps.	Peons and Ameens.	Vakeels' Fees.	Witnesses' Maintenance.	TOTAL.
	Rupees.	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*
150 Begahs of Land paying Revenue	930	50	6	- -	46	- -	108
A Talook - - -	129	8	6	- -	6	- -	20
250 Begahs of Alluvial Land - - -	250	32	5	1	37	- -	76
300 Begahs of Land -	525	32	13	- -	26	- -	71
Share of a Talook -	673	32	13	2	34	- -	81
Debts - - -	840	50	12	1	42	- -	105
Ditto - - -	1,664	100	26	- -	83	- -	210
Ditto - - -	1,000	50	6	2	50	- -	108
Ditto - - -	1,262	50	63	- -	75	- -	188
Bond Debt - -	1,500	50	21	- -	75	- -	146
Rent-free Land - -	686	32	44	2	34	5	118
Ditto - 77 Begahs -	631	32	12	2	31	- -	77
Ditto - quantity not specified - -	1,647	100	14	2	148	- -	263
Ditto - ditto -	527	50	30	- -	47	- -	127
Ditto - ditto -	1,237	50	29	- -	62	- -	141

RESPONDENT.

THING SUED FOR.	Value.	Miscellaneous Stamps.	Peons. and Ameens.	Vakeels' Fees.	Witnesses' Maintenance.	TOTAL.	TOTAL of both Parties.
	Rupees.	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*
150 Begahs of Land paying Revenue	930	6	- -	46	- -	52	154
A Talook - - -	129	7	- -	6	- -	13	33
250 Begahs of Alluvial Land - -	250	5	- -	37	-	42	118
300 Begahs of Land -	525	9	- -	26	- -	35	106
Share of a Talook -	673	9	- -	34	- -	43	124
Debts - - -	840	5	- -	48	- -	53	158
Ditto - - -	1,664	5	- -	83	- -	88	298
Ditto - - -	1,000	1	- -	50	- -	51	159
Ditto - - -	1,262	12	- -	75	- -	87	275
Bond Debt - -	1,500	12	- -	75	- -	87	233
Rent-free Land - -	686	43	1	34	3	81	199
Ditto - 77 Begahs -	631	- -	- -	- -	- -	- -	77
Ditto - quantity not specified - -	1,647	19	- -	148	- -	167	430
Ditto - ditto -	527	17	- -	47	- -	64	191
Ditto - ditto -	1,237	15	- -	62	- -	77	218

EXPENSES in the Sudder Court.

APPELLANT.

THING SUED FOR.	Value.	Institution Stamps.	Miscellaneous Stamps.	Vakeels' Fees.	TOTAL.
	Rupees.	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*
150 Begahs of Land paying Revenue	930	50	32	46	128
A Talook	129	8	30	6	44
250 Begahs of Alluvial Land	250	32	39	37	108
300 Begahs of Land	525	32	30	26	88
Share of a Talook	673	32	42	34	108
Debts	840	50	30	63	143
Ditto	1,664	100	22	83	205
Ditto	1,000	50	30	50	130
Ditto	1,262	50	30	64	144
Bond Debt	1,500	50	52	75	177
Rent-free Land	686	32	40	34	106
Ditto - 77 Begahs	631	50	56	49	155
Ditto - quantity not specified	1,647	100	31	148	279
Ditto - - ditto	527	50	24	47	121
Ditto - - ditto	1,237	50	40	62	152

RESPONDENT.

THING SUED FOR.	Value.	Miscellaneous Stamps.	Peons and Ameens.	Vakeels' Fees.	TOTAL.	TOTAL of both Parties.
	Rupees.	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*
150 Begahs of Land paying Revenue	930	28	28	46	102	230
A Talook	129	26	- -	6	32	76
250 Begahs of Alluvial Land	250	22	- -	37	59	167
300 Begahs of Land	525	36	- -	26	62	150
Share of a Talook	673	32	- -	34	66	174
Debts	840	20	- -	63	83	226
Ditto	1,664	18	- -	83	101	306
Ditto	1,000	20	- -	50	70	200
Ditto	1,262	22	- -	64	86	230
Bond Debt	1,500	44	- -	75	119	296
Rent-free Land	686	- -	- -	- -	- -	106
Ditto - 77 Begahs	631	38	- -	49	87	242
Ditto - quantity not specified	1,647	26	- -	148	174	453
Ditto - - ditto	527	14	- -	47	61	182
Ditto - - ditto	1,237	24	- -	62	86	238

SUMMARY

THING SUED FOR.	Value.	Costs of Parties in the Zillah Court.	Costs of Parties in the Court of Appeal.	Costs of Parties in the Sudder Court.	GRAND TOTAL.
	Rupees.	*Rupees.*	*Rupees.*	*Rupees.*	*Rupees.*
150 Begahs of Land paying Revenue - - -	930	284	154	230	668
A Talook - - - -	129	52	33	76	161
250 Begahs of Alluvial Land	250	88	118	167	373
300 Begahs of Land - -	525	248	106	150	504
Share of a Talook - -	673	194	124	174	492
Debts - - - - -	840	110 ½	158	226	494 ½
Ditto - - - - -	1,664	285	298	306	889
Ditto - - - - -	1,000	180 ½	159	200	539 ½
Ditto - - - - -	1,262	207	275	230	712
Bond Debt - - - -	1,500	214	233	296	743
Rent-free Land - - -	686	167	199	106	472
Ditto - 77 Begahs - -	631	371	77	242	690
Ditto - - quantity not specified - - - -	1,647	235	430	453	1,118
Ditto - - ditto - -	527	106	191	182	479
Ditto - - ditto - -	1,237	208	218	238	664

422. Did the suits which are here mentioned take place in any particular year?—No, they were taken indiscriminately.

423. For how many years?—They are from cases tried by the Sudder Court in various years subsequently to 1814; but the four last were instituted at an earlier period.

424. Was the Persian paper from which this translation was made obtained from the records of the Sudder Dewanny Adawlut?—It was compiled from the records of the Sudder Dewanny Adawlut, under the orders of the Registrar. The costs of suit in the several courts are always recorded in their respective decrees, with an order as to the party that is to pay them; and it was from the record of the decrees adopted in the Sudder Court that the different items were taken.

425. Were they taken indiscriminately from the whole number of causes of which there are records in the three courts, since 1814?—They are all cases which reached the Sudder Court after passing through the two subordinate courts; but out of these they were taken indiscriminately, the object being to get, as far as the Sudder records afforded it, a fair average of the charges of such suits.

426. Is the institution stamp a per-centage on the amount sought to be recovered?—No, not a per-centage, but a sum varying according to the amount or value of the property claimed.

427. Of what are the articles called the miscellaneous stamps composed?—The miscellaneous stamps are those chargeable upon miscellaneous petitions, applications for the summoning of witnesses, and for the filing of exhibits. I do not mean the stamps required to be used on the execution of the instruments that may be exhibited, of which various descriptions must be written on stamped paper, as will be found defined in the stamp regulations; but I now refer merely to the stamp which must be borne by applications for the admission of exhibits in suits.

428. In what manner are the peons paid?—In general by a daily allowance; and the same course is followed in regard to other persons deputed for any local duty relating to the suit. The fifth and corresponding columns include both descriptions of charge for cases in which both have been incurred; and in the first of the cases it is probable that an ameen, or commissioner, was deputed for the purpose of some local inquiry respecting the lands in dispute.

429. Do you apprehend so from the amount?—Yes, from the amount.

430. Are the vakeels' fees also regulated by a per-centage on the amount sought to be recovered, or on the amount recovered?—Up to 5,000 rupees, five per cent. is allowed on the amount or value sued for. When the amount or value exceeds that sum, the fee is regulated by a somewhat complicated calculation, until it reaches 1,000 rupees, the fee on a suit for 80,000 rupees or more.

431. What is the lowest institution stamp in any cause that is instituted in the Zillah Courts?—One rupee.

432. For what sums is that?—For sums not exceeding 16 rupees.

433. What is the highest?—Two thousand rupees, for sums exceeding one lac of rupees.

434. For 100,000 rupees, what is the institution stamp?—One thousand; exceeding that sum, 2,000.

435. By what Regulation is that?—The amount of the institution stamps is fixed by the Bengal Regulation, No. I. of 1814.

436. You have been speaking entirely of the courts subject to the Presidency of Bengal?—Yes.

437. Are the fees of the vakeels of the same amount in the different courts, in the Zillah, in the Court of Appeal, and the Sudder Dewanny?—Yes, they are at the same rate.

438. So that the suitor upon each stage of his cause in the Zillah Court, the Court of Appeal, and the Sudder Dewanny Adawlut, has to pay the vakeels?—Yes.

439. Has he also to pay institution stamps upon each?—Yes.

440. As if it were a fresh cause?—Yes.

441. That is, the plaintiff?—The plaintiff or appellant.

442. Upon what document or proceeding is the stamp affixed?—It is upon the plaint or petition of appeal.

443. Will you be so good as to state the amount of the vakeels' fees in progression, from the smallest to the largest?—For suits not exceeding 5,000 rupees, five per cent. is allowed. If the amount exceed 5,000 rupees, and do not exceed 20,000, five per cent. is allowed on 5,000, and on the remainder two per cent. If the amount or value exceed 20,000 rupees, and does not exceed 50,000, then on 20,000 the fee is calculated as in a suit for that amount, and on the remainder one per cent. is allowed. If the amount exceed 50,000 rupees, and does not exceed 80,000, on 50,000 a sum is allowed, calculated as in a suit for that amount, and on the remainder one half per cent. is allowed. If the amount exceed 80,000 rupees, 1,000 rupees are allowed and no more, however great the amount or value. These fees are fixed by Regulation VII. of 1814. The fractions of rupees are in all cases rejected.

444. Will you enter into the same detail with respect to the institution stamps?—In suits for sums not exceeding 16 rupees, the plaint or petition must be written on paper bearing a stamp of one rupee. If the suit exceed 16 rupees, and do not exceed 32 rupees, a stamp of two rupees is required. Above 32 rupees, and not exceeding 64, the stamp is four rupees. Above 64 rupees, and not exceeding 150, eight rupees. Above 150 rupees, and not exceeding 300, 16 rupees. Above 300 rupees, and not exceeding 800, 32 rupees. Above 800 rupees, and not exceeding 1,600, 50 rupees. Above 1,600 rupees, and not exceeding 3,000, 100 rupees. Above 3,000 rupees, and not exceeding 5,000, 150 rupees. Above 5,000 rupees, and not exceeding 10,000, 250 rupees. Above 10,000 rupees, and not exceeding 15,000, 350 rupees. Above 15,000 rupees, and not exceeding 25,000, 500 rupees. Above 25,000 rupees, and not exceeding 50,000, 750 rupees. Above 50,000 rupees, and not exceeding 100,000, 1,000 rupees. Above 100,000 rupees, 2,000 rupees.

445. Will you state any other stamp duties to which the parties are subject, besides the institution stamp?—All exhibits filed in court are required to be accompanied with an application praying the admission of the same, and that application must be written on stamped paper; if in the Zillah Court, the stamp is one rupee; in the Provincial Court and the Sudder Dewanny Adawlut, two rupees. So also no summons is issued for the attendance of any witness without an application in writing, praying the attendance of such person, which application must be written on stamped paper, similar to that prescribed in the case of filing exhibits. Further answers, replications, rejoinders, supplemental pleadings, and all agreements of compromise and petitions, are required to be written on stamps of one rupee in the Zillah Court, and four rupees in the Provincial Court or in the Sudder Dewanny.

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Dewanny. Miscellaneous petitions and applications preferred to public authorities, either revenue or judicial, are required to be written on stamps of eight annas, if preferred to a Zillah judge, or magistrate, or collector; of one rupee, if to a Court of Appeal or Circuit; and of two rupees, if to the Sudder Dewanny or Nizamut Adawlut, or to the Board of Revenue. The appointment of the vakeels to act in each case is made by an instrument bearing a similar stamp. Copies of decrees also are required to be stamped: in the Zillah Court, the stamp is one rupee; in the Provincial Court, two rupees; in the Sudder, four rupees; and all proceedings of the Sudder prepared for transmission to the King in Council must be transcribed on paper bearing a stamp of two rupees. Copies of miscellaneous papers are required to be written on paper bearing a stamp of eight annas, or half-rupee.

446. Is the expense of stamps a very considerable item in the costs of suits both to plaintiff and defendant?—Yes, I should imagine so, especially to the plaintiff, who pays the institution stamp.

447. How is the amount of the vakeel's fee fixed; is it upon the sum claimed by the plaint, or upon the sum recovered?—Upon the sum claimed.

448. Can the party in any case recover more than the amount which he claims?—I think the judgment includes the amount of interest that accrues pending the suit; but I am not sure.

449. At the institution of the suit, must he not make his full claim?—Yes, unless the case be such as to admit of successive actions.

450. Is it not frequently the case, that on the institution of a suit, a plaintiff, in order to determine the right, restricts his claim either to particular premises, or to a particular sum of money?—I do not recollect any case in which a suit was brought for a certain portion of the claim with the distinct view of settling the right; but according to my recollection, cases have frequently occurred in which the plaintiff has sued for only a part of his just demand in the first instance, intending to sue for the remainder separately if he succeeded.

451. Do you refer to cases with respect to land, or with respect to money demanded, or both?—The cases that I have in recollection had reference to money demands.

452. Then, by the law and practice of the courts in India, may a party sue for a part of his demand, and afterwards commence, having recovered that portion, a fresh suit for the remainder?—I think he may so restrict his claim in the case of a money demand, but not, I apprehend, in the case of landed property, unless the things be distinct, and the interest separate: thus, of several zemindaries held by his ancestor, a plaintiff may, I conceive, sue for one separately from the rest; but he cannot sue for a part of a zemindary.

453. May he sue for a detached part of a large estate for the purpose of establishing his right, and saving the institution fee in the first instance?—Not, I apprehend, if the estate stand in the books of the government as one held by the same title or subject to a common assessment. Thus if a zemindary or a talook, although the parts may be locally detached from each other, or consist of separate villages, a plaintiff claiming under a title applicable to the whole, cannot, I conceive, bring his action for any particular part or village.

454. If the plaintiff recover less than the amount which he claims by the suit, does he get back any part of the institution fee?—He gets back no part of the institution fee.

455. Does the vakeel, although he should recover less, receive the full amount upon the sum claimed?—Yes, upon the amount of the sum claimed.

456. Do those tables which you have produced exhibit an account of the whole of the expenses to which a suitor is subject in the courts in India, in the course of the suit?—No, I apprehend not; they include only the expenses authorized by regulation, and among those there is no allowance for a private agent of any description, although one is almost uniformly employed.

457. Is there not in every cause a mookhtar?—Yes, in most cases.

458. What is the mookhtar?—He is sometimes a servant of the family; some of them are hangers-on of the court.

459. Is the mookhtar or the agent different from the vakeel?—Quite different.

460. Does he not give instructions to the vakeel?—He usually instructs the vakeel as to all facts to be proved or allegations made; he has the charge of the documents on which his client may rest his case, and takes the general management of the cause.

461. Are

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461. Are there, besides the mookhtar or agent, other expenses to which he is subject?—I am not aware of any that are necessary or that could be recognized; but I am afraid that there are charges of which we can take no cognizance, and of which it is difficult to know the amount.

462. Will you state what those charges are which you suppose to exist?—I allude to sums corruptly taken by the native officers, as stated in my former examination; and I have no doubt that the mookhtars often fraudulently charge what they do not expend.

463. Is there any officer or person in the court who taxes the costs of the different parties?—It is the duty of the sheristadar to see that they are according to regulation.

464. In addition to seeing that the costs are according to regulation, is it his business to see that they have been paid?—It is his business to see that the proper stamp is used, in so far as the law expenses are charged in the form of a stamp duty; also, that the amount of the vakeel's fees has been deposited, and its receipt acknowledged by the treasurer.

465. Is it his business to see that the expenses charged for peons and ameens, and for the maintenance of witnesses, have been paid by the parties?—The peons are generally, I believe, paid through the nazir, the officer who superintends the execution of all processes of court.

466. Does the sheristadar ascertain, in fact, that the expenditure has been made, and that it is according to regulation?—Yes; such I conceive to be his duty.

467. How is the value of land sued for estimated in order to fix the institution fee?—In the case of land paying revenue to government, the value is taken at three times the amount of the government jumma or assessment, if it be in the provinces of Bengal, Behar, Benares, or that part of Orissa which is under the permanent settlement; if the land lie in the Ceded and Conquered Provinces, or in Cuttack, which are liable to variable assessments, the value is taken at the amount of one year's assessment; in suits for land held exempt from payment of revenue to government, the value is assumed at 18 years of computed annual rental; in other cases at the estimated worth of the thing sued for.

468. Do the duties of the vakeel include the duties both of counsel and attorney in this country?—He is expected to do all such acts as may be requisite in the court relatively to the suit until judgment be enforced; but the greater part of an attorney's duty is generally done by the mookhtar or private agent of the party, or by the party himself.

469. Does the vakeel receive his instructions either from the party or from his mookhtar?—Yes.

470. Is there any official person employed to instruct him, similar to a solicitor in this country?—No such class is recognized; and though there are many who are in fact professional mookhtars in the courts, they are not legally entitled to interfere in the suits, nor is any part of their charges included in the costs adjudged to the successful party.

471. Does the vakeel in general communicate with the parties directly, or does he in general communicate through a mookhtar or agent?—In most cases, I imagine, through a mookhtar.

472. The mookhtar, or agent, is not recognized in the court as having any authority in the suit?—No; he is not allowed to appear; the party must appear, either in person or by one of the constituted vakeels of the court.

Thomas Fortescue, Esq., called in; and Examined.

T. Fortescue, Esq.

473. WERE you in the civil service of the Company for a number of years?—Yes, I was, for about 23 altogether.

474. Under what presidency were you employed?—In Bengal.

475. Will you state what situations you held generally; in what departments have you been employed?—Both in the revenue and the judicial.

476. How long in the revenue?—For a period of eight or nine years or more, in charge of five different collectorships, three in the Lower Provinces, and two in the Upper Provinces; secretary to three separate revenue commissions, one for the Ceded Provinces, one for the province of Cuttack, and one for the Ceded and Conquered Provinces. In the judicial department, judge and magistrate of the city of Patna, judge and magistrate of the district of Allahabad, subsequently officiating judge of

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the court of circuit and appeal for the division of Benares; then secretary to government in the territorial department; and lastly, civil commissioner for Delhi.

477. Will you state what, from your knowledge and experience, you consider to be the respective rights of the zemindars and the ryots, in respect to the land which they possessed under the Bengal Presidency?—It is a subject which very early interested me, and I endeavoured to acquire an insight into their respective character and relation. My belief is, founded upon the best inquiry I could make, that the ryots have certain qualified rights in the land which they cultivate; that those rights have been acknowledged by the Mahomedan government, both as to law and past practice; and that though the word ryot is a term of different significations, yet it does, with respect to a certain description under that denomination, give a determinate right.

478. Will you state what you consider to be the qualifications to which that right is subject?—The right is an hereditary right to raise the produce of the soil, receiving of that produce a certain admitted portion, the remainder of which belongs to the government. This opinion goes back to and is founded upon the Mahomedan law, as brought, at the period of the conquest, into Hindostan. India having been conquered by force of arms, the Mahomedans applied their law of conquest to it, which authorizes them to deal with the conquered country in different ways. For instance, they can make the inhabitants slaves, and carry them off; they may replace them by others; or they may leave the inhabitants on the land, and impose upon them a certain tax, denominated kheraj, or revenue. There are other modes also by which the conquerors may proceed: they may divide the country among themselves, and impose a certain demand upon those who share, which is known by another name, and amounts only to a tithe. In the instance of the law of conquest, as applied to India, it is the same as that followed in Syria and Egypt; namely, that the original inhabitants were allowed to remain on the soil, and rendered subject to the tax particularly called kheraj, which thus transferred the property absolutely from the conquerors to the conquered inhabitants. The terms made use of in the Mahomedan law, both with reference to the inhabitants and to the property in the cultivator, are terms of the most positive and definite meaning. The inhabitants are called by the term "Uhul," which means those resident upon the lands; the cultivators are styled "Rub ool uruz," or masters or owners of the soil; and the term property is denominated "Milik," importing the most indefeasible right, and they have the power of disposing of it in any way they choose. The Mahomedan lawyers, in discussing the rights over the conquered land, in no instance mention any other claims to it than those of the cultivator and the emaun, or sovereign of the country; but in speaking of the rights of the cultivators, they define the proportion of the produce that is his, and that which is the emaun's, or governor's, by saying, that the cultivator has a right to so much as shall secure him and his family a comfortable subsistence till the approaching harvest, together with seed for the next crop; beyond that the remainder becomes the government's. There is a person to be appointed on the part of the governor, who is to be careful to collect from the cultivators according to the above data, and who is to be paid from the public treasury; nay, further, certain enumerated descriptions of produce are said how to be taxed.

479. Do you consider that at the time of the Mogul government in India, there was any intermediate class between the government and the ryot?—Certainly; but that class was not a proprietary class, generally speaking; exceptions of course there were; that class consisted of persons who were in possession of the privilege of arranging for the realization of the revenue from these cultivators, and forwarding it to the public treasury. In many instances they got grants or immunities from the ruling power in consequence of their influence, or the utility or the necessity of their official station, or from various other causes; but they did not become proprietors over the cultivators, with power to turn them out, nor did they attain to rights over those in their holdings or zemindaries, beyond that of taking from them the government share of the produce.

480. Was there any regular proportion of the produce to which they were entitled?—The proportion of the produce was to be regulated as I have just described.

481. Was there any fixed proportion of the produce which you could say the ryots were subject to pay to government?—I should say that the demand upon the ryot was always grounded upon this: that it was never to exceed that which should

leave a sufficient competency for him and his family to subsist upon, and enough to enable him to cultivate.

482. Do you conceive that there was in practice any class similar to that which composes the class of zemindars in India now?—In practice, as we have given interpretation to the word zemindar, certainly not; and we find that the further we travel from the lower and older provinces up to the newer, the right of the ryot becomes more and more definite and tangible.

483. Have not the zemindars of Bengal for a long time assumed to themselves the rights of proprietors?—Yes; after the promulgations at the period of the permanent settlement.

484. Do the zemindars, in practice, upon the expiration of a lease, raise the rent upon the ryots, according to what they consider the value of the land to be?—They do, most frequently.

485. How long has that been the course of practice for the zemindar to act as the proprietor of the land in Bengal?—Since the permanent settlement, his power has been allowed to be nearly absolute; that is to say, applications made by the ryots have proved most generally fruitless, for the establishment of their qualified rights; the courts have not had the means of settling the rights of the ryots, or coming to a knowledge of them.

486. What do you mean by saying that the courts have not had the means?—They have not been guided by the regulations to a knowledge or sufficient estimate of the qualified rights of the ryots, as I have stated; for a ryot is not a tenant at will. nor is he a tenant for life, nor by lease, nor by any naturally expiring term by time, nor liable to be ousted by a higher bidder, as in this country; therefore such meaning or sense cannot be described by the use of the term ryot, whose holding is superior to these; though, at the same time, he is not an absolute proprietor, for he has not the entire right to what he gets. His is a right to the soil, to raise the produce of it, and to a proportion thereof, before the government's share or remainder.

487. Is his right hereditary?—His right is hereditary.

488. Then, according to the former law of Hindostan, he could not be dispossessed?—According to the Mahomedan law, he could not be dispossessed. His possession was fixed, and his interests or rights, with those of the government, secured by law.

489. Is not the Mahomedan law very much modified in the regulations?—Not in that respect; it has never been touched.

490. Do you consider that at this moment, under the regulations, the zemindar has no right to dispossess the ryot at the expiration of his lease, and to take another ryot as his tenant?—The term lease, as used in this country, in respect to the relation between a proprietor and the inferior, does not apply in India, because the ryot is a proprietor; he objects to take a lease from one that would assume that character over him.

491. Does he take a lease?—He is often now compelled to do so for his own advantage under the regulations; his rights are overlooked.

492. So that he is, according to the law and practice as obtaining in India under the regulations, compelled to take a lease in order to insure his possession of the land?—He is not absolutely obliged to take a lease, but it is strongly encouraged, and it is his interest under the regulations that he should do so: there has been much change in the regulations on this point.

493. Do you consider that by the law as it now obtains in India, the zemindar has a right to raise the rent upon his tenant, and if the tenant will not pay the demand, to dispossess him?—I think by the spirit and intent of the regulations, he has not; and certainly by the Mahomedan law he has not, if the rent he raise trench upon or go beyond the data I have given.

494. By the Mahomedan law, could the government exact a greater quantity of the produce in proportion to the improvement of the land, provided he left sufficient for the maintenance of the cultivator and his family?—Yes, the government could; none but the government and the cultivator have a demand upon the soil.

495. Is the payment of rent in proportion to the produce, under the presidency of Bengal?—It is very much lost sight of; the government interfere little or nothing between the cultivator and the zemindar.

496. Do you consider the zemindar to have been originally the mere collector of the revenue of government?—Originally a person appointed to arrange and collect the revenue from the cultivators; his own profits were indirectly derived

from various sources. The term zemindar has often been, and is still, applied to a person neither considered to be nor claiming the whole proprietary right in his zemindary.

497. Had he no per-centage?—It does not appear that there was an exact per-centage, but there was an allowance which was tantamount thereto, called "nankar;" "nan" meaning literally bread, or an allowance for subsistence. The persons denominated zemindars, did, many of them, possess property in a village, and whole villages too.

498. In point of fact, did he originally derive a certain profit from his situation as zemindar, out of the produce of the land?—Yes; but distinct from and without infringing the property right in the soil and its produce, as I have described, belonging to the ryots.

499. You consider, that under the Mahomedan law, the zemindar has no proprietary right in the land?—Generally speaking, it is so; in many instances he is a part proprietor with the rest of the cultivators, and has a village or villages cultivated by his own family or hired persons.

500. He is a participator in the produce of the land?—Yes, as I have just described.

501. You mean by the Mahomedan law, not in practice?—There is this distinction in the zemindaries; that in Bengal the zemindar is now held to be a large proprietor of estates, whereas in other parts of the country he is but a small real sharer or proprietor in them. The name is often made use of by and to a person dealing directly or indirectly with the government for his holding; and being the proprietor of it really, or not the proprietor, it is indiscriminately applied, without any consideration of locality, or correct notion of right.

502. Do you consider that the zemindar has not a right to raise the rent of the ryot?—He has a right to regulate his receipts from the ryots, according to the rates prevalent in the pergunnah and neighbourhood; beyond those rates he has not; nor beyond what shall leave him a secure subsistence.

503. Do you consider that the law under the Mahomedan government is now modified by the regulations?—I think what I have stated was and is the Mahomedan law, and should be the just practice under the regulations. The persons termed ryots object to take leases from those placed over them by the term zemindar, because that implies a proprietor above them, whereas they consider themselves the proprietors, and it would be lowering themselves to do so; not that they dispute the right of the government to take the proportions due from them, but that they deny the right of any individual between them and the government as affecting their inherent prescriptive right of remaining upon and raising the produce of the property they cultivate. The Mahomedan law gives them liberty to dispose of that property as they choose; at all times, however, that property is subject to the demands of the government.

504. But of all that is not subject to the demands of the government they consider themselves the proprietors?—The Mahomedan law establishes their right first; it proceeds upon that principle. The instructions to their agents are to regulate their settlement with the cultivators, so as to leave them what I have described, and to bring the remainder to the public treasury; that is the Mahomedan law, and it never has been touched. I consider that the regulations have, in spirit and intent, always reserved the rights of the ryots, though they never defined them; but upon the data I have mentioned, they might build what would make the cultivators a contented and happy people, which is not now at all the case.

505. You do not conceive that there is any exact definition of the rights of the ryots by any regulation?—Certainly not; I believe also, that if the pergunnah rates for regulating the demand of the government from the ryots had, at the period of the permanent settlement, been recorded and fixed, the property of the ryots in the soil ere this would have been very valuable, and have rendered them most comfortable; such rates were recorded in some instances, and have been appealed to.

506. You think it is a defect in the permanent settlement that they did not fix and ascertain the exact rights of the ryots?—Certainly.

507. In point of practice now throughout Bengal, does not the zemindar, when he thinks that he can obtain a higher rent for his land, dispossess the ryot, and let it to a person who will give him a higher rent?—He cannot do so avowedly by aid of the regulations; but practically he can, though it is not intended that he should;

the ryot is impotent, and cannot secure himself in the enjoyment of the qualified right I have endeavoured to describe.

508. Can he not maintain his right in the Zillah Court to keep possession of his land upon the terms that you have mentioned?—If the terms that I have mentioned were by the regulations acknowledged as a principle or basis which the courts might assume, he could establish his right; but there is no such data or ground given to aid or direct them; they have no points or precedents as it were set before them.

509. Do you think that there is no regulation sufficiently explicit to enable a judge to decide any case where there is a contest between the zemindar and the ryot, in favour of the ryot who chooses to maintain his possession without agreeing to an increase of rent upon the part of the zemindar?—I do not think that the regulations generally are sufficiently clear to enable him to establish that point; some particular cases are provided for.

510. You say that the zemindar has no power by the regulations to increase his claim upon the ryot, but that he does it practically; how does he manage to do it?—The regulations have never intended that any rights which the ryots possessed should be violated; they have constantly and generally expressed that; but they have never distinctly specified what those rights are that they wished should be upheld in the person of the ryot, nor have they, in consequence of the want of that definition, given the court sufficient means of determining disputes of that kind between the two parties.

511. In point of fact, do you mean that those regulations have not been enforced in the way that they were meant to be enforced?—Yes, with respect to the ryots.

512. And that, in point of fact, the zemindar treats the ryots as a proprietor does his tenants in this country?—Yes, very nearly so.

513. Has there been any case brought into the courts in which a ryot has attempted to establish his claim?—Many; I have not myself had to do with any, but I know, from conversing with judicial officers on that point, that they have felt the impracticability of protecting the ryot, from want of any sufficient data by which to regulate their decisions.

514. In those cases where you state the zemindars come before the court, supposing the ryot to be able to establish his right, as derived from the Mogul government, and to show that the spirit of the regulations was, that that right should be preserved, would not that court listen to that right, and be likely to support it?—I think the courts would, and should be bound to uphold it.

515. Then the difference is, whether they have that right or not?—My opinion is, that the unaltered Mahomedan law gives them that right, and that if the government and the courts had gone back to look for principles to regulate their conduct, they would have found that there were only two persons, the government and the ryot; that the ryot had a certain proportion of the produce, and that the remainder was the government's. There has, in my opinion, arisen a great deal of difficulty and injustice from not following that course.

516. Supposing that it is acknowledged that there are only two classes, the government and the ryot, is it not possible that the government might transfer any portion of that right to other persons?—Certainly; but no more than its own remaining right. The Mahomedan law of conquest, and immediate practice, has already declared and settled the cultivator's rights.

517. But the zemindars, you say, exercise a greater right than the government possess?—The zemindars endeavour to become what the ryots ought to be considered as.

518. Do they act thus independently of any grant from the government?—The regulations declare them to be the zemindars or proprietors of the soil, reserving however, in the most explicit manner, the rights of all classes of cultivators.

519. By what regulations is that declared?—By the regulations of Lord Cornwallis in 1793, and also by the minutes of his Lordship recorded anterior to that.

520. Was it a total departure, when he made those regulations, from the system which had been previously adopted?—When he formed the regulations, the government was satisfied that there were rights in the ryots, but what they were they knew not precisely. If they had adverted to the Mahomedan law of conquest, and its application to India, they would have found, in my judgment, a basis upon which to build.

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521. Do not you consider that those regulations of Lord Cornwallis were settled, after considerable deliberation and inquiry, by persons who had knowledge upon those subjects?—Certainly, very great; but at this moment there are as many, and perhaps more, who upon research are disposed to favour the rights of the ryots, and to consider that the zemindars have none such as the regulations now give them.

522. Is it not a point upon which there is a very great division of opinion in India, the respective rights of the zemindar and the ryot?—Yes; but not so great as formerly, I believe.

523. Among persons well informed upon the subject?—Quite so.

524. You say that the spirit of the regulations has not been acted up to in that respect?—I think so.

525. You say that the spirit of the regulations has not been acted up to, therefore you suppose the spirit of those regulations to have been of that description as to acknowledge the right to be solely and simply in the ryot; but does that appear to be the case?—No.

526. Therefore the spirit of the regulations is not such as you have described?—What I mean is, that the intention of those who made the regulations, and of the regulations, was, when they constituted the zemindars such as they did, that the ryot's rights, undefined as they were, though evidently believed to exist, should be upheld; and that by the Mahomedan law and practice the ryot was entitled to possession, and such portion of the produce as would make him comfortable and easy, and secure the cultivation of the land, which is a right superior to most tenures. The spirit of the regulations does not go so far as the question implies; for if so, it is presumable they would have done more than guard by declaration that (the ryot's rights) of which they possessed not the requisite knowledge to describe minutely.

527. Supposing he neglected to cultivate the soil, what course would government take?—That is provided for by the Mahomedan law, which says with regard to it, that if a man does not cultivate, the governor or some person on his part shall, if he is unable to cultivate, advance him the means of so doing. If he neglects to cultivate, or abandons the soil, still the government have a demand upon him; and why? because he had the power of giving or lending it or hiring the land to whom he chose; and being therefore the proprietor, he is still liable to the claim of the governor.

528. Do you consider that the hereditary right of the ryot has been rejected, or in fact altogether done away by the regulations passed by Lord Cornwallis in 1793?—I think by the practical operation of the regulations they have been nearly effaced, except in some special cases provided for. Travelling to the Upper Provinces from the Lower, those rights are found to be much more respected and clear, particularly so in Bundlekhund and Delhi; in short, where the government have least interfered, there the rights of the ryots are more marked in the soil.

529. You do not consider that by those regulations of Lord Cornwallis the hereditary right of the ryots has been all extinguished?—No; there are particular instances in which that has been the case.

530. Are there particular parts of India in which that hereditary right is acknowledged more than in others?—Very greatly: passing from Bengal upwards into the Ceded and Conquered Provinces and Delhi, it is more distinctly marked.

531. Do you think that the judges in those provinces would decide in favour of the hereditary right of the ryot, if it came in question?—Distinctly so in many parts; I would not say in all.

532. And in the lower parts of Bengal the rights of the ryot have been put a stop to?—Almost, with certain exceptions.

533. And the zemindar possesses the same power with reference to his estate, that the proprietor in this country does?—Yes; very nearly so practically.

Jovis, 9° die Aprilis, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

James O. Oldham, Esq., called in; and Examined.

534. WILL you state in what capacity you have served in India?—I was Collector of land revenue in the Ceded and Conquered Provinces; and after that, Zillah Judge of Moradabad; and last of all, Judge of Circuit at Bareilly.

535. When did you go to India?—In 1798 I went, and in 1823 I left it.

536. Were you employed in the administration of the police?—I had the charge of the zillah of Moradabad; the police of zillah was entirely under me and my assistant for seven years.

537. Have you turned your attention to the question how far it would be possible and expedient to employ natives more extensively than at present in the administration of justice in India, and if so, be pleased to state the result of your consideration upon that subject?—I do not think that the employment of natives to a greater extent would be attended with any beneficial result in the police. I think the further the native police officer is from the European superintendent the more likely he is to abuse his office. That perhaps some of the situations are not sufficiently well paid. I think that many of the police situations are not paid agreeably to the responsibility. If you put men, whether Europeans or natives, in situations of great responsibility, the pay should in some measure correspond. I think that the jurisdictions are, generally speaking, too extensive for one European; that they should be subdivided; and young men, as soon as ever they go out almost, who, under other circumstances, would be hunting and shooting, and idling their time, if employed, and feeling a responsibility, would become valuable servants within a year or two after they went out. I think that the whole of those who are now detained in Calcutta doing nothing should be sent up to the different zillahs, and immediately employed under the collectors or judges, where they would gain a knowledge of the languages, and of the customs and habits of the people by intercourse with them. Prior to their being nominated to any situations of trust, where they had any great responsibility in themselves, they might be examined as to their knowledge of the languages, &c. But they might be very useful long before that, when they are employed under an active watchful magistrate or collector, who will know exactly how far to avail himself of their qualifications for the public service. And I would not have the judge or collector bound by any law to employ them in any particular manner, but leave it to his discretion, agreeably to the ability and the assiduity which he may discover in them.

538. Having said that some of the situations in the police are not sufficiently well paid, do you mean that they are not sufficiently well paid to induce the more respectable class of natives to become candidates for such offices?—I do; or at least if they become candidates, it is with an intention of peculating.

539. Should you make the same remark as to the employment of natives in judicial situations?—Yes, I should certainly, but particularly the Mahomedan law officers, who sit with the judges of circuit in court, and give their decision whether the fact is proved or not, as a jury do in England. Those officers have 200 rupees a month, and when on circuit, are probably obliged to spend 150 of it; and should they lose their situations they may starve, for there is no such thing as a pension for them to retire upon. Now, those men might be pensioned without any material sacrifice by the government, after a fixed period of service, because of their age, being usually upwards of 50 years of age before they get those situations, and they are not a long-lived race.

540. Do you mean to say generally that the judicial situations occupied by natives at present are not sufficiently remunerated?—Yes, I do. I have pointed out the law officers of the courts of circuit, and I may add to them those of the zillah courts.

541. Can you give some general idea of the scales of emolument; are they not matters of regulation?—No, I think they vary, and are fixed by government, on

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special representations. I dare say I am not inaccurate in stating that the law officers of the courts of circuit have 200 rupees a month; that the law officers of the zillah courts have 80 and 100: but then, again, the law officers of the zillah courts have a stated allowance upon their decisions; they decide causes to a certain extent.

542. By the law officers, you mean the Hindoo pundit, and the Mahomedan cauzee or moolavie?—Yes.

543. Are their salaries pretty much upon the same scale?—The law officers in the court of circuit are all Mahomedans, there are no Hindoos. There is a pundit belonging to the court, who merely answers questions as to law in the court of appeal. The same judges sit in both courts; no pundit accompanies the circuit, therefore when an opinion on Hindoo law might be required, reference would be made by post to the sudder station, or the opinion of the zillah pundit taken.

544. In the court of appeal, which is composed of the same judges as the court of circuit, is there not for the trial of appeals in civil cases a Hindoo pundit attending on the judges?—Yes, in civil cases, but he has not a seat in court the same as the Mussulman law officer has, but he is in an apartment in the same building, and questions on Hindoo law are sent to him in writing, and his answer forms part of the record of the civil case.

545. Then the Committee are to understand that the Hindoo law officer forms no part of the attendants on the court of circuit?—No, certainly not; he remains at the sudder station, while the judges make the circuit. But any question on Hindoo law that requires an answer is referred to him, or the zillah pundit. The criminal law is Mahomedan.

546. The civil cases are not tried on appeal upon the circuit at all?—Oh no; the circuit is for the gaol delivery.

547. Will you state more fully your ideas as to the mode of training young writers in India to be employed in judicial situations?—I would, in the first place, insist upon their being with the judge of the zillah in court during the hours that he sits daily, for at least, we will say, the first 12 months, or with the collector, it would be just the same thing if the collector is making a settlement, by which he will get more practical information in 12 months than he would in 10 years at a college in Calcutta, or any where else. By a settlement, I mean assessing the revenue of government on the land, which yet remains to be done in the Ceded and Conquered Provinces. I consider that the collectors so employed have a most laborious duty; that young men, if sent immediately up to them, instead of being kept at the College, might very soon be made useful, and certainly, as I have said before, would learn more in 12 months than they would in 10 years elsewhere.

548. But with respect to the other provinces, what would you say?—I think the plan would succeed in every province of the British Empire.

549. It is understood that the education at the colleges in India is confined to the instruction of the native language?—Yes. Such was the case in 1801.

550. Do you think that there would be any use in having a system by which some of the general principles of law should be communicated to the young men who are to practise judicially?—Our courts are more courts of equity than law, and the less of law the better, I should think, generally speaking. I think if a man has the opportunity of gaining a general knowledge, it might be certainly of great benefit to him to attend public courts any where, either in this country or Calcutta, or any where else; and am of opinion, with regard to the native community, that the less of law and the more of equity they have the better.

551. What age would you have them go out, generally speaking?—I think about 18, not before.

552. And should you conceive that their education, previously to their going out, should be of a general nature?—Yes.

553. Not directed to any particular department which it was supposed they might pursue in India?—They have opportunities of hearing, I believe, lectures on jurisprudence, of attending and getting information on every subject at the College in England.

554. From your observation, should you say that the young men employed in judicial situations are competently instructed?—I answer to that (it is a general question), I have met with many young men that I should say were extremely well qualified; there may be exceptions.

555. You

555. You do not think there is any such deficiency as requires particularly to be provided for?—No, I certainly do not; and particularly the young men who go out in the present day; perhaps many years back there was some lamentable deficiency.

556. Do you think the College at Haileybury has answered a good purpose in that respect?—Oh, certainly, as far as regards general knowledge.

557. Do you not think that a young man having received a liberal education, and among other things, having been versed in the general principles of jurisprudence, would be more fit to enter upon a judicial function in India, than a person who had not the advantage of that education?—I certainly must admit that, inasmuch as all knowledge enlarges the mind.

558. But in general, perhaps, you think that the time which would be devoted to this sort of previous education might be better employed in obtaining a practical acquaintance with the manners and customs of the natives?—Yes.

559. But could he not obtain that after having gone through a certain degree of study of the principles of jurisprudence in this country?—There is nothing to prevent that, certainly.

560. Do you think that by those means his entering upon service would be protracted to any inconvenient period with respect to acquiring the language by his remaining in this country for the purpose that has been mentioned?—Perhaps not, supposing him to go out at 19 or 20, instead of 18.

561. Or 21?—No; we are getting on too much then; 19 or 20 perhaps.

562. You would not recommend any young man going out to India for the civil service, either judicial or revenue, to go out at a later age than 20?—I think not; from 18 to 20, I should say.

563. You say that on the ground, that past that time the language is not so easily acquired?—Yes; and that before that time their minds cannot have been sufficiently cultivated.

564. Do you think that the language is better acquired before or after 20, generally speaking?—Oh, decidedly before.

565. Should you say that from experience?—Yes, certainly. I have in my eye now several young men who came out very young, and who made such proficiency, that those who were a few years older felt a good deal ashamed and annoyed at being classed with them, although these were men perhaps of better sense and judgment than these lads, but had not the quality of attaining the language.

566. In speaking of the employment of natives in the courts of justice, do you think that it would be possible to employ them to judge alone, or must it be under the supervision and with the assistance of Europeans?—We dare not trust them alone.

567. Do you think that by giving the suitor an appeal from the judgment of the native judge, the native judge might not be trusted?—He is already trusted in a measure now, I think to the extent of 100 rupees. An appeal lies from the decision of the moonsif to the judge, and the judge either decides it himself, or again refers it to his registrar or to the sudder aumeens.

568. The sudder aumeen is a superior officer to the moonsif, is he not?—Yes; the sudder aumeen remains at the principal station; it is a situation that the moonsifs look up to. The aumeen has a better salary, and tries original suits to a greater amount than the moonsif, upon which he has a per-centage.

569. In practice, did you find there were many appeals from decisions of native judges in these cases of small amount?—I think the decisions of here and there one or two of the moonsifs were uncommonly good; of those whom I had to look after,

570. Those that were appealed?—Yes. Although the judge usually makes them over to the sudder aumeen or to his registrar, yet he should occasionally take up a few from each to see in what manner they get through their business. Considering them as well educated for natives, they are sure to know almost on which side right and wrong lays, being on or near the spot where the cause of the action arises, and knowing the customs: if honest, they would be almost invaluable.

571. If they could be trusted they would make the very best judges, would they not?—I think undoubtedly they would, because they are not wanting in ability; but then the acutest are in general the most corrupt.

572. Do you think there is no hope, by establishing better pay, of trusting them more than at present, by giving them a sense of responsibility, and possibly by courting

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courting something more of the public opinion of the country than there is at present, that they should be improved for the purpose of the administration of justice?—Yes, I do think that selections might be made from among them, I would say from amongst the Mahomedans.

573. Why do you draw a distinction in favour of the Mahomedans?—I can only speak from my own observation of those who have been under me, and I have found them more trust-worthy than the Hindoos.

574. With this opinion, do you think it possible that the native Mussulmen might be more employed in the administration of the criminal law of India?—I think a selection might be made here and there, which would have a very happy effect; in which case, the individual selected should be entitled to a pension after a fixed term of years of approved service. This provision for old age might be the means of ensuring honesty in the conduct of many whose principles might otherwise not have been proof against temptation.

575. Do you conceive that the employment of natives in judicial stations, either civil or criminal, would attract the confidence of the natives themselves, if they were not liable to the supervision of Europeans?—No; I do not think a native could trust a native; I should say, certainly, generally speaking, that they would prefer an European jurisdiction.

576. Should you say generally, that among the natives there is a want of regard to character?—Oh, most decidedly.

577. Is there any hope that that will be remedied, or in what way is that to be hoped?—The state of feeling among the natives affords little hope of so desirable a change.

578. There has been an idea started, that an increased employment of the natives, and showing them more confidence, would have the effect of reducing the qualities for which credit is given to them?—In a certain degree I should think it might have a beneficial effect. Although they might receive a higher pay, and be put into situations of greater trust, yet I would not remove them far from European superintendence.

579. Do you think it would be safe or politic to employ the natives as justices of the peace in India?—By no means.

580. From what cause do you think it would be unsafe or impolitic?—That they would abuse the trust, and make it a source of emolument to themselves, and that in such a manner that it could not be easy to detect them, for they would not absolutely seize on a man's person, but they would let that man know that he may be called before the police unless such sums were paid, and let him know it in such a way that it could not be traced out; and the very circumstance of a native of any rank being called before the police is a disgrace; it is considered so among themselves. But what I am saying now refers entirely to the Ceded and Conquered Provinces; it may not be the case to that extent about Calcutta or in Bengal generally. But the last 17 years that I was in India I was in the Ceded and Conquered Provinces, and am speaking only of those provinces.

581. Do you mean that your answers generally have reference to those provinces?—I should say all, except to such questions as have been put to me regarding European writers and so on. I give no opinion as to Bengal, Behar, or even Benares.

582. Should you suppose if Europeans were to enter the country in greater numbers, either as residents or settlers, that means could be found for any system of justice adapted to that state of things?—The present jurisdictions there, must be reduced greatly; jurisdictions might be made of perhaps one-fourth of the present extent if there were European settlers.

583. The extent of country you mean?—Yes, the extent of country, supposing the zillahs now to be of as great extent as they formerly were, having myself had charge of zillahs of 140 miles and upwards in length.

584. Would that change involve the increase of the number of European judges of all kinds, or European justices of peace?—Why, yes, I think it must, for a young man of three or four and twenty could scarcely be trusted, I think, in such a jurisdiction where Europeans would have to come before him.

585. Do you think that in any case Europeans could be safely made subject to the jurisdiction of a native judge?—I should be very sorry to see it; I do not think that a native judge, generally speaking, would have firmness sufficient to act

in

in that capacity where Europeans were concerned; and if he had, then on the other side of the question, I think it would have a bad effect.

586. In what way?—It would serve to depreciate the character of the Europeans in the estimation of the natives. I am now talking of the Ceded and Conquered Provinces. There are no Europeans there but the Company's civil and military officers, except perhaps here and there half-a-dozen camp followers, who are treated as suttlers of the camp.

587. Are there no indigo planters there?—There was not one in either of the districts I had charge of; there was not an European indigo planter in them all. I believe that there might have been one or two after I left.

588. Does your objection to the employment of native judges apply to the police as well as to the civil and criminal law?—Certainly, to both branches.

589. Then, in point of fact, the administration of justice would be much more expensive in case of the introduction of European settlers and increased numbers?—Undoubtedly; to say double would be short of the consequent increase.

590. Do you think there must be a very great change in the state of feeling of the natives and of the Europeans, before the native agency can be employed as judges where Europeans are suitors, or where they are the persons tried?—Certainly, that is what I think.

591. Do you think that natives, in civil cases between natives, might be employed to a very considerable extent in point of amount, liable to the supervision of a European judge?—Perhaps the amount might be increased, that is, the sudder aumeen might decide to a greater amount, and I say that, because they are immediately under the personal observation of the judge himself, and if there was any great rascality going forward in the way of bribery, it must come to the knowledge of the judge through some of the people about, before it went to any great extent. Now, those who are employed at a great distance I should be loath to trust.

592. Then, generally, you think that even the presence of the European judge, or at least his vicinity, is of some importance?—No doubt, if he is a man who does his duty well, as I hope I may say the greater part of those with whom I was acquainted did; yet there may be exceptions.

593. Do you think very low natives could be employed to discharge properly the function of juries in either civil or criminal matters?—I have answered that question already in my letter to Mr. Villiers of the 28th of October 1831, and I beg to give that as my answer: "With regard to the employment of native juries, punchayets and assessors in civil or criminal trials, I am most decidedly of opinion, that the measure would be attended with great evil; the influence and authority of the zemindar is such, that individuals could not be met with sufficiently independent to give a just decision, when that decision should be at variance with the zemindar's interest. This I mean generally. The inhabitants of cities and large towns would form exceptions, but even from them I should not expect impartiality."

594. Do you think that for the purpose of forming a jury on circuit, the neighbouring towns could supply a sufficient number of persons to be jurors?—I think that men of sufficient ability may be found who, if not at all acquainted with the parties at issue, might give a just verdict; but corruption is so widely extended amongst them that the prisoners or their friends would, by some means, influence the jurors. Being therefore not independent men, their decisions could not be relied on.

595. When you speak of the influence and authority of the zemindar, will you explain to the Committee why that should prevail in all the ordinary cases that might be supposed to occur between individuals with respect to their private affairs, or in criminal matters?—I would say, in nine instances out of ten of the cases that occur out in the villages, the zemindar has an interest one way or the other. Of the zemindar's authority and influence I will give you one instance, in a case that occurred to me. A murder had taken place in the district of Moradabad, about forty miles from Moradabad. The thannadah, as is usual in those cases, proceeded to the spot to make an inquest on the body, and to inquire for witnesses of the fact: he took the evidence of one witness, who deposed he was present at the time the murder was committed, relating circumstantially the number of sword wounds given, the distance he stood from the deceased, &c. I mean merely to state that the most minute particulars were given by this man as an eye-witness; the man was summoned before me as a magistrate, for his evidence to be taken again. The

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man's name, as usual, was asked; he gave his name correctly. His father's name was asked; he gave that correctly. He went through the whole circumstances *verbatim*, as reported before the thannadah; but when I began to ask him a little more, and cross-questioned him a little, he lost himself quite, and seeing that I suspected there was something that there should not be, and followed it up, the man having no answer to give, at last said, "The whole of the evidence I have given is by order of the zemindar. I am not the real witness, but am come to personate him by the zemindar's orders." "Well," I said, "don't you know you are liable to seven years' transportation for a thing of this kind? here you are taking a man's life away by swearing this." To which he said, "What can I do? the zemindar told me to do it." Now, when matters are in that state, would you have a jury of such men?

596. Would that be at all a just sample of the feelings of men of that class?—I have no doubt but what there are numerous other instances of it; and I have no doubt that a large proportion of those men acting or immediately near their zemindar, and depending upon him for their food, &c. would in that manner personate any body else at the instigation of the zemindar.

597. Do you think the authority of the zemindar capable of suborning persons to act in that manner?—I do not much doubt that, whenever their interest is materially concerned. I think at that time Mr. Ross was the circuit judge, and when he came round (I was then magistrate), he sentenced the man to six or seven years' imprisonment for it.

598. The man who had sworn?—Yes.

599. In the criminal courts, the moolavie, or Mahomedan law officer, hears all the evidence, does he not?—Yes, he does in the court of circuit.

600. And does he find the fact?—Yes, he does; he says "guilty," or "not guilty."

601. Does that finding or verdict of the Mahomedan law officer include both law and fact?—The futwah of the law officer declares whether or not the fact is proved, and states what the Mahomedan law may be; but the judge decrees the punishment according to the regulations of government, substituting imprisonment and stripes with the corah, for the sanguinary awards of amputating limbs, &c.

602. Upon a charge of murder, does the moolavie find the verdict of "guilty," or does he find specially the fact?—No; "guilty," or "not guilty." As soon as ever the whole of the evidence is taken, the judge makes it over to the moolavie for his futwah, which is his decision of whether the fact is proved, and how far perhaps the whole may not be. Sometimes, if the judge agrees with him, and it falls short of death or transportation for life, the judge records his opinion, sentence is carried into execution; if the judge disagrees with him, then the whole trial goes down to the sudder nizamut. But if the law officer finds that the fact is not proved, the prisoner is released immediately, unless indeed the judge, as an extraordinary circumstance, sees there is something improper, and takes on himself the responsibility of sending it down; but generally speaking, the prisoner is released immediately.

603. Now, supposing the charge is murder, and the facts given in evidence do not support that charge, is the verdict of the Mahomedan law officer confined to finding the facts not proved, or may he go on and say, that the facts do not amount to murder?—Certainly, he may say "homicide."

604. He may say it does not amount to murder, but to a lesser description of crime; "homicide?"—Yes.

605. If the Mahomedan law officer finds the prisoner guilty, the judge must either pronounce sentence, or he must refer the whole matter to the sudder, must he not?—If he finds him guilty, yes; if it is a minor offence, anything short of transportation or death.

606. He has no power to reverse the verdict, or futwah as they call it?—Oh, no. I have never met with but one man who would write his futwah and give his judgment without trying first indirectly to obtain the opinion of the European judge.

607. Do you think that that feeling would operate full as strongly, if not more so, if there were juries in civil or criminal cases?—Decidedly so, if they were neither under the influence of the zemindar, nor biassed by their own interest in favour of either party.

608. When you speak of the law officer attempting to ascertain your opinion before he gave his own, do you suppose that that was owing to a distrust of his own judgment, or a desire to win your favour?—No distrust of his own judgment; certainly not.

609. Purely

609. Purely a desire to win your favour?—Exactly so.

610. But when, as of course you resisted that attempt and compelled them to decide, could you trust their judgment?—Certainly; and I have met with one man, as I mentioned before, who never tried to ascertain the opinion of a judge, but gave his opinion.

611. Does the judge put the questions in general to the witnesses?—The native sheristadah or moonshee, who writes the examinations, puts the usual preliminary questions, and will continue to go on until the judge takes it up himself, and puts questions: and perhaps in little thefts, and matters of that kind, the judge will let the sheristadah go on, as a matter of course, with a great deal of it; but in matters of moment the judge will take it up sooner.

612. Does the law officer put questions?—The law officer is at liberty to do it, and perhaps occasionally may, but it is seldom that he does; the law officer is at liberty certainly by the regulations to do it.

613. Does he suggest questions?—I think he rather suggests than puts them.

614. Now after the judge has taken up the examination, does the sheristadah afterwards interfere at all in the examination?—The judge, when he leaves off, will sometimes say go on, and ask as to such a question; sometimes the examinations are so very voluminous, and some of the evidences very material, and others not so.

615. Is the whole taken in writing in civil as well as criminal cases; are the whole proceedings taken down in writing?—Why, with regard to civil cases, the vakeels, who are the counsel, do not plead *vivâ voce*, they give in their plaint and answer, reply and rejoinder. They bring it written into court, so many days being given between the receipt of each for them to answer. The evidence of the witnesses is also taken by the sheristadah in presence of the vakeels, and signed by the counsel on either side. If they were only signed by the counsel on the side of the plaintiff or the defendant, there might be a doubt about their being admitted by the other party, and therefore they are signed by both.

616. But, pray, are the vakeels of either party not heard on matters that occur during the pendency of the cause from time to time, what we should call interlocutory matters?—I cannot say they are not heard, but they do not plead in the manner they do at the bar here: they may find occasion sometimes for an observation, but not at any length.

617. No presenting a petition, for instance, to the judge?—Undoubtedly they may, and do present petitions constantly. After the answer has been given, the reply or the rejoinder, something may have escaped them, and then they will give in a petition, requesting that evidence may be taken on that point, so as it is given in before it comes to the hearing.

618. And they may be heard *vivâ voce* on the merits of that petition?—No, not heard *vivâ voce*, if it is given in beforehand in that manner; but occasionally during the trial they will be heard to a certain extent, if they have anything to bring forward in proof that the proceedings are at variance with the code of Indian laws.

619. Anything to show the proceedings are at variance with the regulations?—Yes, anything to that effect.

620. Are they heard willingly by the judge when they apply to be heard upon those particular points?—I have never been in any other man's court than my own, and therefore I can only speak to what I have done myself as judge of circuit or appeal. I do not recollect any complaint of that nature against the zillah judges.

621. You heard no complaint about their being prevented addressing the court on any point that was thought necessary?—No, it is not customary for them to address the court, but I have never heard any complaints of their being prevented.

Jovis, 12° die Aprilis, 1832.

THE RIGHT HON. ROBERT GRANT. IN THE CHAIR.

IV. JUDICIAL.

The Honourable *William Leslie Melville*, called in; and Examined.

Hon. *W. Leslie Melville.* 12 April 1832.

622. TO what department do you belong?—The Bengal Civil departmen

623. In what capacity did you serve?—I was for a short time in the Commercial and Salt departments, and I have been occasionally employed in the Revenue, and in some degree in the Political department, but I have served principally in the Judicial line.

624. In what judicial situation were you?—I served as Register in different districts; and in the year 1817 a rebellion broke out in the district of Kuttack, and I was employed with others in endeavouring to restore order in that province. I was afterwards Judge and Magistrate of the district of Ghazeepore, and I subsequently officiated as Judge in the court of appeal and circuit of Moorshedabad; and before leaving India in 1830, I was Commissioner of Circuit under the new arrangements at Bareilly, for one year.

625. Has it occurred to you that the judicial system, as administered by the Company's court, is susceptible of any improvements; and if so, name them?—The administration of criminal law seems to me much more satisfactory and perfect than the administration of civil justice. It is efficient in declaring punishment, in trying offenders, and more particularly in securing the innocent; but I am of opinion that the trial of offenders was better conducted under the courts of circuit than under the establishment recently created of resident commissioners. Some of the reasons for this opinion I stated in what is technically termed a Circuit Report, or Report written at the conclusion of a half-yearly sessions for Bareilly, and dated in October 1830, at the time I filled the office of commissioner there. I am further of opinion that the variety of characters and of views prevailing among the successive judges of circuit, with jurisdiction over an extensive range of country, freed them from local bias, while it tended to keep the whole of the subordinate district establishment alive and active. On the other hand, the more limited and local jurisdiction of the commissioners contributes, I think, to narrow and dull what falls within reach of their influence. Much immediate inconvenience has been occasioned too by suddenly placing officers whose lives had been passed in the revenue department, to preside in courts of circuit and regulate the conduct of experienced magistrates. The administration of criminal law under the system devised by Lord Cornwallis, has always appeared to me, as well as to other much more competent judges with whom I have communicated, to be the most successful part of our administration. Our civil courts are less successful, principally, I suppose, because the transactions coming before them for investigation are, as in other countries, much more difficult and complicated. Two or three circumstances appear to me to have contributed also to render the civil courts less efficient than the criminal; one is the absence of check over inferior courts, from the want of a sufficiently rapid decision of appeals. The case of a criminal must be decided in a few months, and any error of the judge is promptly rectified by his superior; but a civil trial, however erroneous the decision, generally lies over for years untouched, and before it is examined the subordinate judge who has decided it is removed, the interest is passed, and the dry correction of the error is inserted in a fresh decree. In criminal trials, again, the highest court (or nizamut adawlut) holds English proceedings, and records in that language its opinion upon the case, pointing out any particular error committed in the conduct of the trial; while in civil suits there is generally no such powerful check. It must be admitted, too, that the constitution of the courts of appeal, and the perpetual liability of the judges to be interrupted in the middle of the civil causes before them by the return of the period for making the circuit, very much impeded and injured the transaction of civil business, and tended to throw much indirect power into the hands of the native officers. Much attention has been paid to the maintenance of proper tribunals and the use of effective processes, and many sound and right decisions are certainly given; and yet I am afraid

we have failed considerably in giving a prompt restitution of things unjustly taken away or withheld. There seems to me a particular deficiency in the simple, distinct, uniform and constant recognition of rights, and in the effective enforcement of them: the rules, principles and precedents which should guide our decisions are not sufficiently adhered to; a succession of judges in the same court or in appeal take different views and pass a variety of orders; the case swells and too often exhibits a mere mass of confusion, from which it is no easy task to select the materials necessary for arriving at a correct conclusion. There are scarcely any laws, correctly so speaking, defining rights; we are obliged to frame our decisions either with reference to general principles or to the decisions of the sudder dewanny adawlut, or chief civil court, five or six volumes of whose reports have been published. I should conceive that they compose a valuable foundation on which a system of law might now be commenced. The recent arrangement, which will draw many valuable officers from all concern in the administration of civil business, to employ them as commissioners of revenue and circuit, seems to me to have further tended to deteriorate the administration of civil justice; but so lately as November last I understand that a civil court has been established in the western provinces. The measure appears to be a very judicious one, but I am not yet informed of the details. Perhaps I may be allowed to recall attention to an observation of the late Sir T. Munro, that the constitution, by which I understand the system of administering law and collecting revenue, should not be altered in India without authority from England: although in many respects the Indian government cannot be left too free to act on its own responsibility, yet I incline to think that such changes as these should only be undertaken after that deliberate and cautious inquiry, and with that prospect of stability which a full and anxious discussion has so great a tendency to promote.

626. You have alluded to the employment of natives in the judicial administration; do you conceive that they might be more extensively employed than at present, or that any arrangement might be made so as to render such a change of system efficient with respect to the administration of civil justice?—I observe that by a recent alteration in November last, the powers of the moonsiffs are considerably increased. I am generally favourable to the extension of the power of the moonsiffs, but in regard to the exact mode in which the recent change will operate, I am not yet sufficiently informed of the details to be able to judge.

627. Is there less complication in pleading in criminal causes than in civil, in your courts?—Pleading in criminal causes we have none.

628. Are your proceedings *ore tenus?*—Entirely; there is simply a charge inserted in the calendar, and that charge comes to trial without any pleadings.

629. In civil causes are your pleadings conducted in Persian?—They are.

630. Do you think that a desirable system, being in a language foreign to all parties, plaintiff, defendant and witnesses?—It is at the same time generally and familiarly studied by every native of education or rank in India. I have never paid any particular attention to the point myself; but partly from its having been so long and generally employed, and partly owing to the structure of the language, I believe it is found a more convenient and shorter mode of expressing evidence than the other native language of India.

631. Should you think the gradual substitution of English advisable?—The gradual substitution of English I should certainly think very desirable, but it must be very gradual. Our Bengal provinces are not at present prepared for such a change.

632. What is your opinion as to the substitution of the language of the country in which the court may be held, instead of a foreign one, such as Persian is in most parts of India?—I am not aware that much practical inconvenience is experienced from conducting the pleadings and from writing the evidence in Persian; some facilities exist, for the reasons I have already assigned.

633. Is an interpreter employed?—No; in point of fact, ordinarily speaking, the evidence which is delivered in the vernacular language, whatever it may be, of the witnesses, is seldom written down in that language, but it is translated into Persian by the writer, as he goes along. The confessions of prisoners, by a special order, must be taken down in the language in which they are delivered.

634. What means has the prisoner of checking the evidence taken down in a language he does not understand?—Certainly not much; it is the duty of the presiding judge to take care of that.

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635. Do the prisoners commonly employ vakeels or agents of any kind to conduct their defence?—No; I do not recollect any instance of that kind.

636. Is the evidence, when taken down in Persian, ever read over afterwards, or translated and read over to the prisoner?—He hears it when it is delivered, and if any question arises regarding it, of course it would be translated and read over to him.

637. But it is not the common practice to do so?—It is not the common practice to read it over in the language in which it was delivered, after it has been taken down.

638. In what language is the judgment delivered in criminal cases?—The judgment is delivered, in fact, by the issue of a warrant; an intimation is given which is written in three languages, English, Persian, and the language of the country.

639. Is the judgment written down?—The warrant is issued by the judge holding the circuit in those three languages, in the heavier class of offences; and intimation is given accordingly to the prisoner of the punishment to which he is sentenced, in his own language.

640. How is it in the lighter cases, misdemeanors for instance?—The magistrate intimates, in the prisoner's own language, the sentence passed on him.

641. Is that sentence formally reduced into Persian also?—The sentence is also reduced into Persian, although no warrant is issued. By a recent rule, a copy of the sentence passed on each prisoner is furnished to him, in consequence of some mistake having occurred.

642. Is that copy in his language?—It is in the vernacular language.

643. Does the judge who tries the prisoner commonly understand the Persian, in which the evidence is taken down?—I should suppose so.

644. Those judges are at the present moment commissioners of revenue, are they not?—I am not quite sure; I think I have heard that in the western provinces the office of commissioner of circuit and commissioner of revenue had been separated very recently, the duties being found too laborious.

645. How was it at the time when you were in India?—At the time I was in India I held the office of commissioner of both revenue and circuit.

646. Is a prisoner allowed to cross-examine a witness?—Certainly.

647. Is the evidence always delivered within the hearing of the judge in criminal trials?—In the heavier class of offences, in trials before the court of circuit, the evidence is always delivered in the hearing of the judge. In misdemeanors and the smaller offences, the evidence is taken down in the presence of the judge; but the cases are so numerous that it is found impracticable that he should superintend taking down the evidence in each separate trial. The parties, witnesses and prisoners, therefore, are brought up before the magistrate after the evidence has been taken down, and such questions as may be necessary to verify the examination and elucidate the case are then asked by the magistrate. The evidence which is taken down in Persian, is read over in Persian to the magistrate.

648. In the case of a prisoner wishing to cross-examine, does he cross-examine the witness in the presence of the judge, or does he cross-examine him in a corner of the room where the evidence is taken down?—More usually while the evidence is being given in court.

649. Do all the witnesses constantly attend before the magistrate at the time the evidence is read over?—Uniformly.

650. But then the evidence is read over in the language which they do not probably understand?—Certainly; and that is the object of the questions put by the magistrate, to verify the evidence.

651. Is the evidence taken down in the language of the witness, or only in Persian?—Only in the Persian; but in the province of Bengal I think it is occasionally taken down in Bengalee.

652. And is that Bengalee in writing turned into Persian by any officer of the court?—It is. It was found, to the best of my recollection, that those local dialects were so numerous that there was considerable difficulty in understanding them. In the serious trials which were referred to the court of nizamut adawlut, or superior criminal court in Calcutta, circular instructions were issued directing that all evidence or depositions not taken down in Persian should be accompanied by a translation into Persian.

653. Is not the Bengalee the language of a great nation?—It is; but on the borders there is a different dialect.

654. Is

654. Is not Bengalee the language of many millions?—I should think so, certainly.

655. Is it not the only language in general which those millions speak?—The much larger proportion in every village of Bengal understand nothing except Bengalee.

656. But rarely any that understand Persian?—No. In any considerable town there are always two or three schools for Persian.

657. What class of cases would those be in which the evidence was not taken down within the hearing of the magistrate?—Misdemeanors principally, and occasionally cases of petty theft; the magistrate is occasionally empowered to sentence to two years' imprisonment for certain offences. In these the evidence is taken under the magistrate's superintendence.

658. Is it not so universally?—I can only speak of my own practice.

659. In your own practice were those cases always taken in your own hearing?—Generally, I should say, the evidence was taken in my presence.

660. How often are the assizes for the trial of crimes of a graver description held?—The rule is that the sessions should be held half-yearly, but sometimes owing to various causes much longer intervals elapse.

661. What is the longest interval that you have known to have elapsed?—I think, in some of the trials that came before me at the sessions that were held immediately before I left India in 1830, some of the cases had lain over for 18 months, and I rather believe there were a few which had remained untried for nearly two years.

662. How frequently had the sessions been held within those two years?—There have been one or two sessions, and the one in which I was engaged occupied several months.

663. Then there is not a complete gaol delivery at each sessions?—The particular cases I have referred to occurred on the introduction of a new system and a new tribunal; and thus, I suppose, some delay and embarrassment arose.

664. Previous to the introduction of a new species of tribunal there was a complete gaol delivery each sessions?—Certainly; complete in the ordinary acceptation of the term, the cases of all the prisoners committed were disposed of unless special reasons occurred for postponing the trial.

665. Is the punishment of death frequently awarded in India?—Much more rarely than in England.

666. Can that punishment be carried into execution without the sanction of the Nizamut Adawlut?—Certainly not.

667. What is the usual mode of punishment in India of crimes of a serious description?—Imprisonment, frequently accompanied with hard labour on the public roads; often with banishment, and sometimes with corporal punishment. Some few offences are punished by public exposure.

668. Is mutilation discontinued?—In every case in which mutilation is prescribed by the Mahomedan law, it is commuted to imprisonment.

669. What is understood by banishment?—Partly being removed to a different part of the country, remote from the residence of the prisoner's family; partly transportation beyond sea, as to Prince of Wales' Island or Malacca, within certain limits prescribed by Act of Parliament.

670. What change in the judicial system will be expedient and practicable, in the event of a materially increased influx into the Indian provinces of European settlers or residents?—I have never much considered that question, but I conceive our institutions and laws ought to be framed with reference to the great mass of our population; for the millions and not for the tens. I do not see any good reason why a few British subjects should have special laws, special tribunals, and special protection for themselves; as in other foreign countries, they ought, I conceive, to content themselves with an administration of justice inferior to that of this country. For a special purpose they choose to sacrifice a portion of their rights, and I do not conceive that they are entitled to complain of their bargain.

671. Then you conceive it necessary that they should be amenable to the law as administered in the provinces?—Yes.

672. Do you think that British subjects would feel any indisposition to be tried in criminal cases according to the rules of the Mahomedan law?—If it is supposed from the question that the Mahomedan criminal law is now administered by our courts, I conceive that not to be the case, it is so entirely modified to correspond with the provisions of the codes of Europe.

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673. Is it modified by the regulations?—Yes.

674. Is the Hindoo law administered in any criminal cases in India?—No, not in any.

675. Then the criminal law which is administered in India is the Mahomedan law, unless in cases where that Mahomedan law is modified or qualified by the regulations?—By the regulations in some degree, also by practice and precedent, and what is termed circular orders from the superior court.

676. Are those circular orders mere explanations of the laws then enacted?—They are.

677. Have they in fact any power to change the law at all?—Certainly not.

678. Must any modifications or qualifications of the Mahomedan law be made by the authority of the government by regulations?—Alterations must be so made; that is provided for by Act of Parliament and by our regulations; explanations may be conveyed in circular orders.

679. Do you think there would be any objection that a British subject should be tried by the Mahomedan law, modified as it is by the regulations?—No; generally speaking, no particular objection occurs to me. Perhaps I ought to explain that I conceive that the power of legislating on the subject should belong to the local government, and should not be reserved to the authorities in this country.

680. Upon a criminal trial, does the Mahomedan law officer sit with the judge?—Yes.

681. Does he hear all the evidence?—Certainly.

682. And he by his futwa finds whether the fact is proved or not?—Yes.

683. Then he is somewhat in the nature of a jury in that respect?—Yes, excepting that he does not decide the cause; whatever his finding may be, it does not bind the judge.

684. Can the judge decide contrary to the finding of the Mahomedan law officer?—If the trial is held before the court of circuit, in the event of the judge differing from the Mahomedan law officer, a reference is made to the court of Nizamut Adawlut or superior criminal court in Calcutta. If a difference of opinion occurs in that superior court, I think reference is made to another judge, and it is competent to a majority of the nizamut adawlut to pass any sentence without reference to the futwa.

685. If the futwa has acquitted the prisoner, can the nizamut adawlut direct punishment to be awarded against him?—By Section 4, Regulation 17, A. D. 1817, and by Section 7, Regulation 4, A. D. 1822, the nizamut adawlut appears to have the power.

686. If the judge does not object to the finding of the Mahomedan law officer, in all cases except capital, he may immediately award punishment on the finding?—Yes, excepting where the punishment is either capital or involves imprisonment for life. Perhaps I ought to explain, that it is in the power of the Governor-general in Council to dispense with the sitting of the Mahomedan law officer altogether, in any case which it appears more desirable to conduct without his interposition. The law, Regulation 1, 1810, originated I think in consequence of a quarrel between two French gentlemen at Chandernagore, which terminated in the death of one of them in a duel; the inconvenience of having a Mahomedan law officer to pronounce in such a case was felt, and the enactment was passed.

687. Was that a general regulation passed upon the happening of this very particular case?—My impression is that it arose principally from that circumstance; I had nothing to do with it; probably other cases occurred.

688. Is it now the law, according to the regulations of the government, that a Mahomedan may be tried by the English judge without the presence of the Mahomedan law officer?—My impression is so, under the regulation above quoted.

689. Do you think the law, as you have stated it, of criminal trials in India, under the regulations, such that there would be no objection that a British subject should be exposed to that mode of trial?—No material inconvenience immediately occurs to me, and if any arose I conceive it would be easily rectified by the government by another regulation. As far as I am capable of judging, I should say Acts of Parliament are found wanting in the pliability and adaptation to the actual wants of the people which is desirable in legislation.

690. May a regulation of government be passed in matters relating to the administration of justice, operating upon all persons in India, excepting British subjects?—Yes.

—Yes. Perhaps I ought to mention that many provisions in Acts of Parliament relating to India, passed within my own recollection, have been found inoperative when attempted to be enforced.

691. Would you recommend the establishment of anything in the nature of a legislative body of legislative council in India, to make laws for all persons whomsoever, including British subjects?—I think I have heard that such a proposal was made, but I have not seen the papers with regard to it, and I am not prepared to pronounce upon it. It occurs to me that the judges of the supreme court, whom I believe it was proposed to include in the council, might assist most materially in compiling a civil and criminal code from the mass of decisions passed by the King's and superior native courts, but I should doubt whether they would find themselves equally competent to pronounce on other very important subjects, as the relative rights of landholders and tenantry; and by the time they could among their other occupations have acquired that knowledge, the period of service which can be expected from them would perhaps have expired.

692. Do you think they might be safely associated with persons conversant with the administration of justice in the province, for the purpose of making laws from time to time, as occasion required?—I conceive they would be extremely useful in compiling laws in the mode I have indicated; but I should doubt, in our revenue system and in various other details of our administration, as they are very complicated, whether the subjects came so much before the judges in their ordinary occupation as to facilitate their mastering those questions.

693. Have you any doubt that if it were expedient to establish a legislative body or council in India, for the purpose of making laws from time to time for all descriptions of persons, including British subjects, that the judges of the supreme courts could be very usefully associated as members of that body?—Certainly very usefully, to the extent I have endeavoured to point out; but further it might depend upon the provisions under which such a council might sit. If any member had the power of deferring the enactment of the law until he had thoroughly satisfied himself of the expediency of passing it, embarrassments might arise.

694. Have you made up your mind at all whether it would be expedient to have a council in India for the purpose of making laws for India, either council or government, or whether a body ought to be established to make laws in India for India, whether that body be composed of the judges and the council, or whether it be composed of the government alone?—I have already, I believe, pointed out that in my opinion no alteration should be made in the constitution in India, that is, as I understand it, the system of administering law and of collecting the revenue, without communication with this country, but all other subjects I think had better be subject to the regulation of the authorities in that country; and I can easily suppose certain regulations under which a legislative council composed in the manner suggested, partly of judges of the superior court, partly of the government, might be rendered extremely useful.

695. But in matters of revenue do you think they ought to communicate with some authority at home?—I do not think the system under which our revenue administration is conducted should be changed without previous reference to this country; I may add, that I think changes have been so frequent as to be very prejudicial already.

696. Would you not think it right that the power of legislating in matters of revenue should be confined to this country?—By no means.

697. But you think important matters affecting the revenue ought not to be legislated upon in India, without communication with the authorities at home?—I conceive they do not acquire the degree of consistency and stability which is the foundation of all improvements without such communication.

698. But do you think that all matters relating to the administration of justice for all descriptions of persons could be safely confided to such a legislative council in India?—Generally speaking, with the control that already exists in this country, partly from public opinion, partly from the appeal allowed to the King in Council, and the other checks which exist, I should apprehend that it was extremely improbable that government would abuse any authority of the kind that might be entrusted to it.

699. If opportunity was given for the admission of British subjects to settle in any parts of India, do you not think such a power of providing by a legislative council for the administration of justice in the country would very much tend to render

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render the step more safe and proper?—Yes, certainly, either by the government or the legislative council.

700. Do you conceive natives might be more generally employed in the administration of justice in India than they are at the present moment?—If it was proposed to substitute native juries for the present tribunal, I apprehend the result would be an entire failure. As I have already explained, I am very sensible of the defects of the present establishment; but I conceive much greater and more hopeless disorders must ensue from such a change as that. There seems to me great want of the materials necessary to compose tribunals at all resembling English juries. If all the testimony delivered on the subject of India agrees in anything, it surely is in representing the low state of moral feeling exhibited in our courts of justice. Native officers and retainers, no less than suitors and witnesses, are all represented as false and corrupt. With the exception of the class of native officers called sudder ameens, or superior native judges, or the law officers, there is little of native respectability to be found. That the native character possesses much that is estimable, is unquestionable; but we have not very well succeeded in bringing the virtues of integrity and truth to assist in the administration of justice. That by legislation on the supposition of the existence of those virtues we should immediately bring the virtues themselves into active exercise, is I fear a theory more pleasing to the imagination than founded in any extensive experience of mankind. I speak not of other countries or of other societies, but of the presidency of Bengal; and I am persuaded the soundest opinions there will be adverse to supplying the demand for justice by juries independent of European control. Most judges are, I believe, at first smitten with the idea of disposing of cases by arbitration, by punchayet; under the rules already in force, it appears as if it would both save trouble and give satisfaction: Soon impediments multiply: one or other party objects to the course of proceeding, or some of the punchayet is ill, or cannot or will not attend, or it is alleged that they will not hear some of the evidence, or that the decision is directly at variance with the evidence. The court gets embarrassed between the desire to support the punchayet and to prevent the abuses charged; whatever the errors of the punchayet may be, it is reluctant to make them defendants; the cause lingers, and I fear little satisfaction is offered. From my own experience, I should say punchayets seldom answered, excepting in the very rare case where the opposing parties both desired in good faith to have their respective rights ascertained and determined. Another tribunal, somewhat analogous to what is proposed, is that of native courts-martial for the trial of offenders against military law. These are independent courts, and I think it is admitted that they have altogether failed in administering impartial justice. They are either merely passive instruments in the hands of the judge-advocate or superintendent officer, or more frequently, where the offender is a native officer, they deliberately shield him, whatever may be the evidence or charge against him. The general orders of the Bengal army constantly recorded the most severe censures passed by the commander-in-chief against the sentences of native courts-martial; and whatever difficulties may arise in recalling the power of trial, I believe all intelligent officers regret it was ever conferred. It is to be borne in mind that the army of Bengal is not, like European armies, recruited from the lowest ranks of society, but from that rank which should furnish jurymen.

701. You state that those who compose the army in India are generally of a more respectable class than those who compose the armies of Europe?—Yes.

702. And yet you state that great objections have been taken to investing those persons with the powers of sitting in courts-martial?—Yes, as a court having the power of pronouncing sentence on their fellows.

703. You believe private soldiers do not sit in courts-martials, but their native officers do?—Yes. The people of India possess a singular facility of combining, and silently but effectually resisting authority. Where so many circumstances occur to fetter the mind, much freedom in opinion and integrity in judging is scarcely to be expected, and influences very different from the abstract love of justice must be anticipated. If juries should be tried and fail to answer the end proposed, I fear they might be a very grievous instrument of oppression, injustice and fraud; the more intolerable because no mode occurs to me of correcting their errors on appeal, however gross the failure of justice. I have, however, for some time been of opinion that some additional facilities in employing natives in administering both civil and criminal justice might be afforded to the courts. It occurs to me that it might be rendered optional with judges to summon punchayets or assessors, to aid him in cases in which he saw a reasonable ground to believe it might promote the

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ends of justice; but they should rather act as assessors to advise the judge than decide themselves. A discreet judge, and probably only such would summon a jury, would treat them with a degree of respect and consideration which would afford them ample encouragement; and should the institution be found to answer, their powers might be increased. To illustrate my meaning, I may mention a criminal trial, my notes in which I happen to have with me: it was a charge against two bankers composing a firm, for stealing a letter containing drafts for large sums of money, forging and uttering the indorsement, and thereby obtaining the money. The greater part of the trial consisted of an examination of the truth or falsehood of certain bankers' books; and another point was respecting the usages of brokers in negociating bills. The trial lasted, I think, 10 or 12 days, and I remember feeling how much assistance I could have derived from some of the many bankers and merchants whom curiosity led to attend, had the law or usages of our court permitted me to have availed myself of that knowledge and experience in a description of business with which I was unacquainted. After the trial, I heard that a punchayet sat to determine whether business should in future be transacted with the firm in question, and I found I had arrived at the same conclusion with the jury, though probably by a much more circuitous course. In the very common offence of affrays or village quarrels, and in numerous others, I incline to think that material assistance might often be obtained from a punchayet, and I perceive no material objection to making the experiment. In civil suits, in like manner, in questions of disputed boundaries, of disputed accounts, or of caste or others, much aid might be obtained from the natives. At present, all reports on matters of fact are prohibited, except where both parties agree to a reference to arbitration; and if one party absent himself, the court, however unequal to the duty, must enter into the examination of the most complicated accounts and transactions, and I think some discretion on this point ought to be vested in the court. I understand that some provision of the nature of that above suggested has been introduced under the presidency of Bombay, but I do not know with what success.

704. You have stated in your evidence that larger powers have been given to the native judges to try civil causes than they possessed heretofore; do you know to what extent that power has been increased?—The principal sudder ameens are empowered to try to the extent of 5,000 rupees, the ordinary sudder ameens to the extent of 1,000 rupees; the powers of the moonsiffs are also increased, they are now entitled to try suits for personal property to the value of 300 rupees, and also suits for real property for the same value, with certain exceptions.

705. Do you conceive that such increased powers can be given to natives as judges or assessors, consistent with the large introduction of Europeans in the interior as settlers or residents?—I should certainly not consider it desirable to vest natives with jurisdiction over British subjects at any place other than that in which a European judge holds his court. I think assistance might be derived from the natives, in administering the law with regard to Europeans, if an European judge presided.

706. Then you conceive that all the cases which might arise between the European so situated and a native, should be tried in the zillah court, before an European judge, and not before a native judge?—Generally I should conceive it desirable that cases in which Europeans are concerned should be tried under the immediate superintendence of an European judge.

707. Do you think it would be satisfactory to the natives themselves that their causes were tried by a native judge, without the supervision of any European?—Generally speaking, I should say it was not desirable to invest the natives with final jurisdiction. There are instances of persons as able and as intelligent and as pure as any European, but the general tendency is otherwise, particularly in regard to integrity. The natives are inclined to suspect the integrity of each other.

708. Have the salaries of the judges been increased from the time their powers have been augmented?—I am not aware whether that is the case; I have merely seen an abstract of a regulation, in which the remuneration to be afforded them would not be inserted.

709. Do you not conceive, the suspicion of our impure administration of justice in the hands of natives, in some degree arises from the lowness of the salaries they receive?—The class whom we have paid as native gentlemen, and treated as native gentlemen, is the only class who I conceive have maintained their respectability.

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710. In what way are the native judges generally treated by the European judge; with respect or otherwise?—Certainly not with disrespect, but there are different grades of native judges.

711. Are they allowed to sit in the judge's presence?—The higher class undoubtedly.

712. Are the sudder ameens allowed?—Generally; but it depends on their rank.

713. Is it not frequently the case that a native of some rank is not allowed to sit in the presence of an European judge?—The feeling on that subject, and the observances on this point were very strictly enforced, I imagine, under the Mahomedan government, and in the earlier periods of our government we were perhaps somewhat tenacious upon it, but I think we are gradually becoming less so. In the great majority of cases it is immediately understood whether the person is or not sufficiently high in rank to sit, and in doubtful cases the general disposition is to allow him a chair.

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714. Is there any addition you wish to make to the evidence you have given?—Several questions were put to me upon the subject of a legislative council as applicable to India; and it has occurred to me to mention that an admixture of the gentlemen educated at the Scotch bar might be useful in a council of that nature, in administering the law contained in the Mahomedan and Hindoo codes; the code of Scotland being more founded on the civil law and on general principles than perhaps the law of England.

Veneris, 13° *die Aprilis* 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

Robert North Collie Hamilton, Esq. called in; and Examined.

R. N. C. Hamilton, Esq. 13 April 1832.

715. WHERE has your service been?—In the Bengal presidency, chiefly in the Judicial department at Benares as a Magistrate, and latterly as Deputy Secretary in the Judicial department at Calcutta.

716. On the supposition that Europeans in increased numbers were to become settlers in the interior of India, should you consider the judicial system of the country courts as at present established to be sufficient for that state of things, or would you recommend any and what changes?—It depends chiefly on what will be the nature of the settlers; if they were people of large property and capital simply residing there on estates, the present system would be sufficient, but if there were to be a mass of people of an inferior order it would require some alteration. I do not suppose that the natives themselves would be fit or capable.

717. Do you mean to say that the courts in which natives were judges are not competent to try Europeans?—They would not be.

718. Do you speak of the natives immediately at the present time, or do you suppose that by degrees their general character has so improved as to render them competent to try Europeans, either criminally or civilly?—I should think it would take a great lapse of time before they were competent.

719. Could you not say that within the period of your acquaintance with India there has taken place among the natives, especially at the presidency, a very great change of character?—A material change.

720. Have they not acquired more confidence in themselves, and do they not more easily conform to the European modes?—They acquire more confidence in the European modes, and are more confident in the system under which they live.

721. It is found that what at that time was a prevalent opinion of the unchangeableness of the native character has been a good deal modified?—Yes, they are fast improving now.

722. You think any further change so great as to render it fit to seat them in judgment on Europeans, must be the work of a very long time?—To make them impartial judges.

723. You do not mean by competency that the state of their minds and faculties is so inferior, but on account of their moral character?—Certainly.

724. What do you conceive would be the defectiveness of a native tribunal sitting in judgment where Europeans were concerned, civilly or criminally?—If the Europeans were influential persons, they would be partial; if there was a lower class of persons of no importance at all, they might be tyrannical and arbitrary.

725. Do

725. Do you think that any evil effect would be produced, on the opinions entertained among natives in general of Europeans?—I think every decision that tended to lower the character of the Europeans, would lower them in their estimation.

726. Would the circumstance of the natives sitting in judgment upon the Europeans impair the native in the estimation of the Europeans; the fact of their being subjected to the natives?—Certainly; it is not under a native state, for in a native state an European is nothing more than another subject.

727. Supposing an increased number of Europeans to reside in the country, either as settlers having property, or in any employment in the country of a lower kind, do you think the present judicial system of the Company, in point of extent and magnitude, sufficient to administer justice under such circumstances?—I think the present judicial system is as small as it can possibly be, it is barely sufficient in some of the largest districts to superintend now sufficiently every part of the district, but I do not think the increase of Europeans would cause an increase of crime so as to occasion greater work. I think you would require Europeans to try Europeans, and therefore that would be an additional expense and a material one.

728. In addition to the present courts?—I do not think the present native courts constituted of natives are calculated to try Europeans for criminal offences.

729. Do you mean with an European judge remaining as he does; do you think the court under such judge or assistant is not sufficient to administer justice where the Europeans are concerned?—Certainly, I consider it very doubtful.

730. Do you think the European judge or assistant would be relieved by the native officer being appointed to try the native cases; and being so relieved, do you suppose the present European establishment sufficiently large?—Confining it to this; if the Europeans are to hear cases in which the Europeans were concerned (taking them entirely from the natives), it ceases to be a *native* tribunal.

731. In that case you think the present European judicial force would be sufficient?—Yes. There is a system about to be introduced in which the powers of the natives would be equal almost to what was the power of the European judges in civil courts some years ago; it is with reference to this my answer applies. I do not think those natives who have got the additional power, are competent to give impartial decisions in a case. I confine my remark to a court in which a native alone presides, of course subject to appeal.

732. It is understood that the Europeans going into the interior under local licenses, did thereby subject themselves to the country courts; at present would that engagement oblige them to submit to the jurisdiction of courts where the natives alone preside at present?—Yes, it would, according to the tenor of their *local* license.

733. Do you know, in point of fact, whether the Europeans have ever been subjected to courts where natives preside, by local license or otherwise?—In civil matters.

734. You know that?—An European can hold land now for any suits that arise out of his engagements with natives in the course of trade or agriculture; those suits may be heard in a native court, where a native only presides; he is obliged to abide by the decision of that court as much as another.

735. Does it in point of fact frequently happen?—Not very frequently.

736. Not often enough so that you can draw a general rule how far the natives could be found efficient?—The case is this, an European seldom lets his name appear to a suit; so that if you were to take the file of a court and look through to see who sues, you would find the agent, who is the native prosecutor; unless therefore you know for whom he was the agent, you could not know who was the principal.

737. This is confined to civil cases?—In criminal cases he must appear in person.

738. According to your opinion, the effect of the experiment which is now trying of the more extensive employment of natives in the administration of justice, is comparatively of very little value on the supposition that a great number of Europeans became residents in the country?—In that point of view it is.

739. Can you state the outline of any changes that were in contemplation in the administration of civil justice, at the time of your leaving India?—When I left India in last January twelvemonth, the draft of a regulation had been prepared by which the native courts were to be remodelled. Formerly the civil courts consisted of a judge or register, who was limited to hear suits under 500 rupees, and from 500 rupees to 1,000 rupees. There were two classes of registers. The native

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judges, called sudder aumeens, were limited to the trial of suits not exceeding 500 rupees, generally not exceeding 250. Under these sudder aumeens there was a class of civil officers, moonsiffs, who tried suits of a minor extent in the interior of the districts. By the new scheme the office of register was done away, and sudder aumeens were to be empowered to try suits from 1,000 to 5,000 rupees, and an increase of powers of a corresponding nature was given to the inferior courts. This would materially lessen the business before the judge, who was to confine himself to hear the original suits of a larger amount; appeals from the superior sudder aumeens sedam, who were competent to hear appeals from the inferior courts. This was the outline of the measure which had been before government, but was sent for report to the judges of the superior court, sudder dewanny adawlut, whose opinion on it had not been received. That would alter the whole system of civil courts.

740. Has the salary of native judges been increased?—The salary of the native judges of the first class was to be from 500 to 1,000 rupees a month.

741. What are they now?—From 100 to 200, some 350 rupees.

742. Some were 350?—Their salary ranged from 100 to 350 rupees a month.

743. What was to be the salary of the moonsiffs?—That was to be raised to 100 and 150, from 25 to 50 rupees.

744. Is there to be any regulation about these?—Yes; there was to be an extension of power in proportion to what they had before. The moonsiff has a local court in the districts.

745. The sudder aumeen being extended to 5,000 rupees, is there a similar extension?—There are three classes of sudder aumeens; one to hear suits under 5,000 rupees, another from 500 to 1,000, and the third from 1,000 to 5,000. The moonsiffs were to hear minor suits in the interior of the districts; the other courts being at the zillah station. An ultimate appeal would come to the zillah judge (the European functionary), and that would be final, from the moonsiffs.

746. Would the provincial courts be done away with?—Yes.

747. Do you know anything of the calculation of the expense of the new system as compared with the old?—It was calculated not to increase the expenditure, by the reduction of the office of registrar; his salary, as well as the expenses of the provincial courts of appeal, would defray the increased salaries of the natives.

748. What would become of the provincial judges, those who act now?—They were to be absorbed into the service.

749. In what way was criminal justice to be administered?—Its administration is completely changed: the court of circuit and the provincial court of appeal were one; they are subdivided; there is now a commissioner of circuit, and the old provincial court of appeal remains.

750. The alteration has been some time; the commissioner of revenue has been the judge of the circuit?—I think the regulation was in 1829.

751. That has been fully carried into effect, it is no part of this new plan?—The part relating to criminal courts had been carried into effect, and failed I am afraid from uniting the revenue and judicial powers, thus loading the functionary with work he could not do.

752. It failed from the incompetency of the individual to discharge both duties?—From want of time he was incompetent.

753. Have the Hindoos or Mahomedan natives ever been employed in juries in Calcutta to your knowledge?—I have not heard of any jury being empannelled solely of Hindoos or Mahomedans.

754. You doubt if it is possible they should be?—I consider it impossible for a native jury to be empannelled for the trial of any native, from the natural prejudices as to caste; a respectable or high-caste Hindoo would think it a degradation to sit upon a jury in which an inferior caste was to be tried, and an inferior caste would, by his religion, consider he had committed a sin in bringing disgrace and punishment on a Brahmin.

755. How far does that principle operate in courts-martial among the native troops?—I believe there is no low-caste man enlisted in the army. I cannot be competent to give evidence on military matters, but the common soldier is supposed to be a man of respectable caste before he is enlisted; I do not suppose there is the lowest caste of Hindoo in the army. I do not believe a native court-martial ever sits without being superintended by an European officer; the interpreter of the regiment is usually the superintendent of all native regimental court-martials.

756. Do you not conceive that a species of jury might be appointed in different courts,

courts, taken from officers and agents who were in the habit of attending the courts?—I think that would be most prejudicial as far as impartiality is concerned; I think every man who receives pay about the court is the last man who ought to be employed. If you take a man who holds an office in one district, and make him a juror in another, you must have some one to do his work during his absence. Competency as to intellect I do not dispute; but the question is, if a man who has retired from the service from age, living 200 miles off, would like to be summoned to sit on a jury. There was a calculation made of what would be the expense supposing native juries were to be assembled at the assizes or sessions, and the expense of one sessions was nearly 50,000 rupees per annum; that is the amount by a calculation of Mr. Leycester, late chief judge of the sudder, recorded on the minutes of the court.

757. But upon the trial of criminal cases the native officer who attends acts somewhat in the nature of a juror?—There are regulations empowering the presiding judge to set aside the (futwah) opinion of the moolavie, who is always attended by one.

758. Who finds the matter of fact?—He finds guilty or not guilty; but there is a regulation by which the courts are empowered to set aside that decision.

759. If it is a conviction, but not an acquittal?—The futwah which is given acquitting a man at Benares, may be reversed by the superior court; or the commissioner's decision at Benares can be reversed by the nizamut adawlut.

760. What can he do; can he reverse the judgment?—The whole trial goes down.

761. Supposing a person is acquitted by the futwah of the Mahomedan officer, if the commissioner of circuit approves of it, it is final; if he disapproves of it, it goes to the nizamut adawlut?—Yes.

762. May the sudder nizamut adawlut set aside the futwah, and pronounce judgment on this person who is declared not guilty by the futwah?—By the futwah the court are not guided; they give their opinion as if it were a new trial before them, on the whole case.

763. But without hearing new evidence?—They can send the case back to have more evidence taken. It is almost a new trial in the event of the European functionary and the law officer not agreeing; if they agree, the thing is final; still the higher court has the power of sending for the evidence.

764. Do such references often take place?—Constantly; that is in case of the judge disagreeing.

765. Upon the same evidence upon which the Mahomedan law officer has found that the party is not guilty, the nizamut adawlut may pronounce him guilty, and sentence him to punishment?—It is their verdict on the evidence that comes before them; every word having been taken down. They may quash the indictment and send it back, or they may decide the contrary.

766. What is the usual practice; to refer it to another trial, or give a decision upon it?—I do not think I ever recollect a trial in that way being quashed; not commonly; they generally decide on it as it goes down.

767. If the moolavie (the Mahomedan law officer) should pronounce and say "not guilty," and the opinion of the European judge should be "guilty," in that case the nizamut adawlut would decide in favour of the judge?—The nizamut adawlut will sometimes decide one way and sometimes another; they sometimes agree with the moolavie and sometimes not.

768. Suppose the native should say "guilty," and the European judge should be positive it is a case for acquittal, is not his decision final?—No; in all cases in which they disagree, let their disagreement be how it may, it must go to the superior court.

769. A capital sentence cannot be pronounced unless submitted to the nizamut adawlut?—I do not think the commissioner of circuit can sentence to more than 14 years' imprisonment or banishment.

770. Does the nizamut adawlut hear fresh evidence?—They are empowered to hear it if they think fit.

771. Hear it, or send for it?—They must send for it; sometimes it is 1,200 miles.

772. They rarely send for fresh evidence?—There must be one opinion for an acquittal, and they generally acquit where there is a doubt; they are more disposed to acquit than convict in those cases; but then the court of the nizamut adawlut consists of three or four or five judges, two of the judges may acquit and three convict.

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convict. There is a curious case of embezzlement for a large amount of the Benares mint pending, in which the judges of the nizamut adawlut found the prisoner guilty, and the quantum of punishment is what they do not make up their minds to; they differ among themselves, and the case is lying over owing to the death of the senior judge.

773. In that case there was a difference between the moolavie and the European judge?—Yes; I think the moolavie acquitted and the commissioner of circuit found guilty: it has gone to the sudder nizamut, and the judges have found the guilt, but the measure of punishment remains doubtful.

774. Are there no means of coming to a decision on the punishment?—There ought to be.

775. Is the judge in the habit of making observations on the evidence, before the moolavie pronounces his futwah?—No: I never have myself sat on those cases. On the close of an evidence the moolavie can cross-examine any witness he pleases, and on the close of the case the European judge desires him to give his futwah in writing, first as to the guilt, and in the event of guilt, what would be the punishment by the Mahomedan law. If he agrees in the guilt, and it is a case in which he is competent to pass judgment, he does so, reporting it to the nizamut adawlut; but if he disagrees with the futwah as to the guilt or innocence, he sends the case down with the futwah, and his own opinion on the merits and particulars of the case. To the superior court he gives his reasons in detail.

776. Do you think, by the forms of law in criminal proceedings in India, the life and personal liberty of the native are well secured, or otherwise?—I think for the purposes of justice it is perfectly sufficient.

777. There is often considerable difficulty in convicting?—In the course of nine years' residence at Benares, in which I was connected with the magistrate's office, I do not think there were above three capital punishments, that is, sentences of death.

778. How many capital charges might there be in that time?—There is a statement I have given in; I suppose the capital charges were 200 a year.

779. Did that number arise from acquittals or commutations?—There were plenty of punishments of imprisonment and transportation.

780. There is considerable difficulty, is there not, in convicting in the criminal courts of India?—Yes; I think the tendency is more to acquit than convict. If you take the result of the trials, you will find more acquittals than convictions.

781. To what do you attribute that?—To the difficulty of convicting; to the difficulty of finding conclusive evidence.

782. Is not the law of evidence the Mahomedan law of evidence, unless it be modified; and is any particular number of witnesses required to prove a fact in a criminal case by the law as it obtains?—No.

783. Can one witness be sufficient if the moolavie believes him?—The moolavie will not give his futwah by our law; it will be according to the Mahomedan law.

784. His decision will be according to the Mahomedan law?—Yes.

785. Does that require more witnesses?—It requires two witnesses, and in some cases it requires eye-witnesses.

786. Can any person in India in the criminal courts, that is, any native, be convicted on mere circumstantial evidence of any criminal offence, without direct testimony of the fact?—The Mahomedan code of law requires direct testimony of the fact.

787. Then the moolavie would not convict, he would not find a futwah against the prisoner, unless there were two witnesses to the fact?—They have a technical term, and they would find him guilty on presumptive evidence; he would state that in his futwah, but not guilty on direct evidence; that is, supposing the man were by circumstantial evidence found guilty of an offence that would involve death, he would state in his futwah that the extreme sentence was barred for want of a witness or direct testimony, but that he would be guilty on presumptive evidence.

788. That is, that he would be suspected?—No; his futwah would be "guilty."

789. He would be liable to punishment?—Yes, to the minor punishment.

790. Is there much difficulty in obtaining evidence, arising from the parties who might give the evidence being intimidated?—It did certainly exist to a great extent, but it is fast decreasing. If you separate Bengal and the Western Provinces, it may exist in Bengal, it is known to; in the Western Provinces it is not by any means so frequent.

791. Has

791. Has the crime of decoitee decreased?—Yes; it is a crime confined to one or two districts.

792. Is it to the improvement of the police you describe that decrease?—A great deal of it depends upon the settled state of the country, and likewise to the police.

793. How often are the sessions held in each district?—Half-yearly.

794. Are all the prisoners brought to trial?—They are all sent up for trial.

795. Are they all tried in each session?—They are all put on their trial, except there is something that makes them lie over, but the judge is obliged to dispose of the calendar and account for the prisoners in every case; the gaol is delivered. The law is, if a case stands over two calendars the prisoner is acquitted and set free. Before the system of commissioners of circuit, a man might be confined for a year before the sessions, the commissioner of the circuit never reaching the place: it ought to be half-yearly.

796. Under the present system is it the fact that the gaols are regularly delivered each half year?—I think, under the new system of commissioners, it is delivered twice within a twelvemonth. If they have a sessions this month, six months from this date there may be very few for trial.

797. But still they deliver twice a year?—It would be twice a year, though not six months apart.

798. They are delivered twice a year?—Yes.

799. You stated that the system of employing commissioners rather than judges going the circuit, has failed from the accession of the revenue duties?—Yes.

800. Does not that circumstance prevent the complete gaol delivery?—No; because another officer has been sent to hold the gaol delivery, and this proves the failure of the new system.

801. What description of person is he?—An officiating judge for the circuit to all intents and purposes; he has the same power as the commissioner of the circuit.

802. It is another qualified person?—Yes.

803. Do those commissioners of necessity possess a knowledge of the law when they are first appointed?—To answer that, I must go more into detail than the Committee may think it right to do.

804. Will you inform the Committee whether, in your opinion, the proper means for qualifying these Europeans and writers who are employed in judicial functions are sufficient; and if not, what other means you would recommend for securing the proper qualification and the proper execution of the administration of justice, generally?—I think that a writer who has been attached to the judicial branch, by the time he comes to the commissioner's office is qualified to perform the functions of a commissioner of circuit, but I doubt much whether he is qualified supposing that he has been brought up in the revenue branch and then made a commissioner of revenue and circuit, I doubt if he is qualified for the circuit, though he is fully qualified for the revenue; or *vice versâ*, a man who is brought up in the judicial branch is not qualified perhaps for revenue; but the appointment under the system as it now is, of the commissioner of revenue and circuit, was in this way: The government abolished the courts of circuit and the boards of revenue; they had numerically a sufficient number of men, and they divided the country out: there were three boards of revenue and five courts of circuit; they parcelled out the whole country into jurisdictions, each containing three or four zillahs, or districts, and government appointed a judge from a court of circuit to be a commissioner of revenue and circuit, and a district was placed under him, with the powers of the board of revenue and the commissioners of the circuit: so also an officer was taken from the revenue board and made him the same. It is no imputation on an individual to say he might not be qualified for one department; the first man in the service may be qualified in one line, though he may not be so competent in the other: it is upon that partly the system has failed.

805. So far as acquiring a knowledge of the natives goes, is not experience in the revenue department important?—I think that the judicial officer gains more insight, in the course of his service from a writer to the office of commissioner of circuit, in revenue matters, than a revenue officer does of the judicial, in rising from a writer to the board of revenue. As a civil judge he has to look over the revenue proceedings.

806. Have you any plan by which this mischief might be rectified?—The commissioners of circuits were an improvement on the old courts of circuit, by ensuring a half-yearly

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a half-yearly gaol delivery in each district, from giving them a space they could travel over within the period. In the Bareilly circuit the judge had to travel 1,200, or perhaps 2,000 miles in the half year with all his office; that was under the old regime; now he has not to travel more than 60 miles from a given centre. The new arrangement diminishes the sphere in each case, but it blends the functions of the judicial and the revenue departments. Had they given each six instead of three districts to superintend in one branch only, if a revenue officer had six instead of three, with the duties of circuit judge, confined only to revenue matters, the business would have been performed; that is, the improvement would have been substantial.

807. You would send the same officers on their circuit?—Let them be wholly distinct from each other; restrict the duties, and put one in the revenue and one in the judicial.

808. You would enlarge the spheres, and divide the duties?—Yes, I think it is wrong to give them both functions; a positive evil.

809. Are the natives ever employed as judges in criminal cases to any amount?—No.

810. Not as magistrates?—No.

811. Do you think it would be advisable to make natives justices of the peace?—Certainly not.

812. Do you mean that answer generally?—I mean that a native is not a qualified person to perform the duties of a justice of the peace.

813. Even over natives?—No, not beyond the present police jurisdiction and authority he possesses.

814. As you say you would not employ natives as justices of the peace, do you think it would be safe to have a power of employing them to any limited extent at the presidencies in the functions of police?—It might do no harm; it would be inoperative. I think they are not yet capable.

815. Do you think the natives would of themselves have confidence in a native justice of the peace?—No, certainly not.

816. Do you think there would be any advantage in having some means of instructing these writers employed in the administration of justice, in the general principles of law, before they commence their judicial career?—I certainly think a man who knows something of law is much better qualified than one who knows nothing; but the local regulations are what he must know.

817. Do you think a person better qualified to discharge the judicial functions if he were grounded originally in the general principles of jurisprudence?—That is the object of Haileybury, supposing he attends to those lectures delivered there.

818. Has the instruction which he gets in the principles of law in Haileybury been found useful?—Yes, I think so; as far as it goes it is most useful.

819. Is it desirable to extend it?—I do not know how it could be extended, unless writers were kept longer in England.

820. Might you not by altering the course of study?—I myself went there. I do not think you could increase the study of law without decreasing something else; to keep within the present limit of residence in the College, you must take away something equally useful to learn, to give more time for the study of law.

821. And what is that?—I think a writer learns least of the languages. In my opinion, the three principal things a man learns at Haileybury are law, political economy, and history. Afterwards he has no opportunity in India of gaining similar information.

822. Would there be an advantage in excluding classical and mathematical instruction from Haileybury, and substituting many of these more available and practicable branches?—I do not think it desirable to exclude classics and mathematics.

823. Supposing a certain part of the youth destined for India should be intended for the judicial line, would it be advisable to prolong their stay in this country to enable them to acquire a knowledge of the principles of jurisprudence more perfectly than they do now?—It is difficult to tie a man down in this country to say what line he shall pursue in India. In my own case I should have conceived it would have been hard to tie me down in England, for it might have happened that there was another branch that I might have been more disposed to turn my mind to after I had seen India.

824. You are of opinion that the choice of the particular line in which he is to be employed cannot well be fixed until he gets to India?—Yes; and not till he is out

of

of the Calcutta college; till he sees the country: he is sent up as assistant to a place there; he sees the nature of the business, and he may then fix himself to one branch.

825. It is pretty much left to the young men there to choose their own lines?—It is; but I fancy the exigency of the service often requires them to be sent. Formerly a man was appointed assistant to a judge and magistrate, which is wholly judicial, or he chose, and was sent as assistant to the collector, which is wholly revenue; now they are appointed as assistants to the commissioners of revenue and circuit, it remains for them then to be sent where they may be most wanted.

826. They are not now enabled to choose whether they will be in the revenue or judicial line?—Every young man on his emancipation is appointed now assistant in the revenue and judicial line; he is appointed assistant to the commissioner of revenue and circuit; and he is not appointed assistant to a magistrate or collector of a specified place, as he would have been formerly, but under a commissioner, who assigns him to any place within his jurisdiction.

827. Does he assign him after he has some knowledge of what he is fit for, having employed himself?—He assigns him as soon as he thinks him qualified; it is left entirely to him: sometimes he deputes him under a relation, for it is fair to conceive he would learn his duty better under a person interested in him.

828. Is he generallly employed in both departments?—Yes; alternate days usually.

829. How long upon an average would a young gentleman remain as an assistant before he would be appointed a commissioner?—I suppose 18 years, perhaps 20.

830. He would be assistant?—No; intermediately he may be a magistrate and collector, but before he becomes a commissioner he would see 18 years' service. A writer, after having passed the required examination at the college of Fort William, is first appointed (according to the present system) assistant to a commissioner of revenue and circuit, at whose disposal he is placed to be deputed or attached to any office (revenue or magisterial) where his service may be most required. Supposing him deputed to a magistrate's office, his prospect of rising in the service would be thus:

1st. Assistant to magistrate: On a salary from 400 to 600 rupees per month, for a period of near five years.

2d. Joint magistrate: On a salary of 800 to 1,000 rupees, for a period of three years.

3d. Magistrate: On a salary of 1,200 to 1,600 rupees, until he might be appointed judge of a *civil* court, and his *magisterial* functions would cease; from which he would

4th. (Commissioner) Rise to a commissioner, after 18 or 20 years.

It will be seen from this scale that an officer may be appointed a *judge* of a civil court without having gone through the training which he would have under the former system, which was thus:

Assistant to judge and magistrate;
Register and joint magistrate;
Judge and magistrate.

By the abolition of registers (the intermediate step between assistant and judge), it is difficult to see how a man, whose time is fully occupied, can get that same degree of knowledge under the new system he might naturally have gained in the 10 or 12 years' *apprenticeship* before he attained the office of judge and magistrate, as far as *civil* judge is concerned. But suppose the commissioner to depute the assistant in the revenue department, he would become,

1st. Assistant to a collector, and wholly confined to revenue matters.

2d. Deputy collector: Deputed to make settlements and assessments, and possibly created joint magistrate, with all the powers.

3d. Collector: In charge of a district in every particular relating to revenue.

4th. Commissioner: He would become a commissioner of revenue and circuit, after 18 or 20 years.

The powers vested by regulation in an assistant to a magistrate, are "to hear and determine any case *made over* specially for that purpose by the magistrate, and on proof and conviction to order a punishment not exceeding one month's imprisonment, or a fine not exceeding 50 rupees.

A magistrate, on conviction of certain offences, may punish with six months' imprisonment, with or without labour and irons, 30 stripes, and a fine not exceeding 200 rupees, commutation to imprisonment not exceeding six months. A magistrate,

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by Regulation 12, I think, of 1818, may on conviction of a burglary (and thefts exceeding 100 rupees in value) sentence to two years' imprisonment with labour; and by another regulation, in cases of serious affrays, sentence to one year's imprisonment. In all cases of murder, homicide (or attempts), burglaries exceeding 100 rupees, woundings, administering drugs, child stealing, and other heinous offences, the magistrate must, in the event of there being sufficient evidence, commit the accused to take his trial before the commissioner of circuit, at the assize or session next to be holden.

831. Is the assistant ever employed in delivering the gaols?—Never.

832. What means has the assistant of learning the judicial part of his business?—He is generally appointed to be the assistant to a district; after having been a short time at the commissioner's office, he assigns him to a district, and in the office of that district he learns the routine of duty and gains experience.

833. But in the district to which he is appointed as assistant, what is the nature of the judicial functions he discharges?—In preparing cases and taking evidence.

834. What cases does he prepare?—Any the magistrate may send to him.

835. What is the nature of the preparation of a case; how does he prepare a case?—Much in the same way as a magistrate prepares a case before he commits it in this country.

836. Taking the depositions of witnesses?—Yes; and making the case as complete as he can, so that the magistrate may come to a decision upon it: the magistrate can send for more evidence and make further inquiry.

837. That is in the case of minor offences or commitments?—Of any case that may be sent to him.

838. Does he do so in cases of a graver description that are for trial?—Yes, he prepares it for trial; he passes no decision.

839. Are not all the cases of a graver description tried, and the depositions taken, before the commissioner of revenue himself?—Before the magistrate, in the magistrate's office, in the first instance; but the commissioner of circuit has the whole over again before himself and the moolavie. The commissioner is the superior authority in the district.

840. The commissioner is the judge of the circuit?—Yes.

841. And assists in the delivery of the gaols?—Yes; the judge of circuit only delivers the gaols.

842. Suppose a case of theft of a serious nature, would not that case be entirely heard from its commencement to its termination before the commissioner, at the time of trial?—Suppose a theft takes place in a district under 200 rupees in amount, the magistrate disposes of it entirely himself, even as to the punishment. Supposing it to be a heavy case he commits it for trial before the commissioner of circuit, who hears the case, and has all the witnesses before him, and takes it all down as a new trial.

843. When you speak of the preparation of a case by the assistant, you allude to a case below 100 rupees?—He prepares it for the opinion of the magistrate; the magistrate may say, this is a case which should go to the commissioner at the next circuit.

844. Is the preparation carried on by the assistant, having the witnesses in the same room, though the magistrate does not interfere?—Every evidence ought to be taken before the English functionary. The assistant takes evidence and tries to make the case as complete as he can before he sends it up to the magistrate, who goes over the case completely, although he does not take it again in writing; but if it goes to the commissioner of circuit the trial is taken down in writing *de novo* before the commissioner.

845. So that the instruction of the assistant is brought in actual contact with the persons?—He is the person who superintends the whole evidence.

846. Is it compatible with the judicial service that a young man should attend the court as a student; could that be made compatible with the practice in judicial courts?—No.

847. You say there is no opportunity in which he could be attending, his services being required immediately after college?—Yes.

848. Would he not be better qualified if he attended as barristers bringing up for the bar attend here?—If you make them barristers you deprive the natives of the office of pleaders.

849. But could you not give him an opportunity of acquiring a knowledge of the

law by attending as a student?—I think he acquires it by the preparation of the cases and the taking of evidence.

850. You think that is better than attending as a student?—It is his own interest to get up the case as completely as if it was for his own decision; he is not fettered except by the law, which he must inquire into and study.

851. Does he not act sometimes himself in a judicial capacity as assistant to the judge?—Yes, in petty cases.

852. So that in fact he is to discharge the functions of a judge almost immediately on his leaving college?—In disputes in small cases.

853. At that time surely he cannot be qualified?—He cannot of himself hear a single case until it is sent from the magistrate; he cannot try any case, or look at the papers even, until it is made over regularly by the magistrate.

854. He may give a decision?—If he is ordered by the magistrate.

855. If the magistrate refers a case for his decision he can decide?—Yes; the responsibility of being able to do that rests with the magistrate; if it is made over to him by the magistrate for his decision he can decide it.

856. You assume that he would not make it over to him if he did not think him qualified?—When I was assistant I had not a case made over to me for six or eight months after I was in the office.

857. In what language are the depositions taken down?—In Persian.

858. Who does that?—A native writer.

859. What means has the assistant of knowing if they are correctly taken down?—By knowing the language.

860. But supposing he does not understand Persian?—He would not be out of the college. Persian is the language by which the assistant is qualified for the service: he has given into his hand a Persian paper, and he is to translate it into English, and an English paper which he is to translate into and write in Persian; he is supposed to be able to read and write after having done this.

861. You think him sufficiently qualified in his knowledge of Persian, in the first instance, to superintend the depositions?—Provided he has passed college, he knows it beforehand; a man the first time does not understand so much as he does by practice after.

862. Do they learn Persian at Haileybury?—Yes; that is one of the tests.

863. And he is examined in Persian before he leaves the College at Calcutta?—Yes. I do not mean that a man when he leaves college reads as fluently as he does after having been in an office for a year or two.

864. You have spoken of the magistrates; what description of persons are the magistrates?—The commissioner on circuit is much the same as the judge who goes of the assizes in England, and the magistrate is there much in the same way as a bench of magistrates at the petty sessions.

865. It is a class of civil service?—Yes: the first step from an assistant is to be a joint magistrate, he then has a portion of district over which there may be a magistrate; he then becomes magistrate, and from that he becomes a commissioner of circuit: the rise from an assistant to a commissioner is not without intermediate grades.

866. The commissioner, the magistrate and the assistant, are all engaged both in judicial and in revenue functions?—Not always; the magistrate is a distinct authority from the commissioner: the revenue duties are performed by the collectors, not by magistrates.

867. That is what you referred to when you said a young man chose what line he would take?—He rises to a magistrate, then he becomes a commissioner; ultimately he is not so well qualified to be a commissioner of revenue as a person who has risen from an assistant to a collector, and thence to a commissioner of revenue.

868. If he keeps to the revenue line his step is to be a collector?—Yes; those who have been totally confined to one branch cannot be so well qualified for the other.

869. Do you think an assistant is ever called upon to give a judicial opinion upon a question before he acquires sufficient experience to do so, that is, soon after leaving the college?—If he is called on for a decision it is not final; every decision is appealable to the magistrate, and every decision of the magistrate is appealable to the commissioner.

870. In order to qualify himself for judicial duties he has to acquire a general knowledge of law, and also a knowledge of Mahomedan and Hindoo law?—The

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Mahomedan and Hindoo law (except in cases in which there is caste or anything of that kind) form a very little part of judicial education; the regulations are the principal thing he must know; the regulations he is bound by his oath of office to conform to, and in their preparation the Hindoo and Mahomedan law were taken into consideration. The regulations are enforced, and they are the law of the land now; he is bound on his oath to administer justice by them.

871. That, then, is his only judicial study?—That is his only judicial study.

872. Are the commissioners at the present moment taken from the class of collectors and magistrates, either one or the other?—They have not been in existence above two years and a half; they then were taken from the boards of revenue as well as the courts of circuit; now, of course, they would be taken according to their standing. A man who would have been eligible to a court of circuit is eligible now to a commissioner of revenue and circuit, and he has the two functions, and if he is of standing in the service he is a commissioner of revenue and of the circuit.

873. He may be equally chosen from the classes of the magistrates or collectors?—The magistrate or the collector equally are steps to a commissionership.

874. Is not experience in the revenue department of some service to a man in adapting him to the judicial?—That is quite a party question. I think a man is a better judge if he knows the detail of revenue proceedings, the same as any man must be a better judge the more information he has. The powers of the magistrates at Madras and Bengal are not equal. It is a common mistake to suppose that the magistrates of Bengal and Madras have the same powers.

875. In what direction does the zillah judge rise?—It used to be assistant, then he was made register, and from that a judge, in which capacity he had no magisterial duties at all; no police.

876. To what does he arrive beyond that of being a judge of the zillah court?—He used to rise to the court of appeal.

877. Those provincial courts being removed, what is his next step?—The commissioner; every thing ends in the commissioner. In fact there is no distinction of lines such as used to prevail in the revenue and judicial departments; the union of these two is most prejudicial, in my opinion, in many respects.

878. What is the salary of a commissioner of the circuit?—Thirty-six thousand rupees, and 6,000 rupees for travelling allowance.

879. And what is that of the zillah judge?—Twenty-eight thousand rupees.

880. And of the magistrate?—From 1,000 to 1,600 rupees a month.

881. And of the assistant?—On quitting his college he gets 400 rupees a month, and he gets an increase of 100 rupees; two years after leaving college it is 400 or 500 rupees a month; on that he remains till he gets higher.

Lunæ, 16° die Aprilis, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

William Butterworth Bayley, Esq. called in; and Examined.

W. B. Bayley, Esq. 16 April 1832.

882. WILL you give to the Committee any information as to the present state of the judicial establishments of the Company, or any suggestions as to the improvements in it which are required and practicable?—I have explained my sentiments on the administration of civil justice under the presidency of Bengal, in a minute recorded in November 1829; on that occasion I observed that the machinery of Lord Cornwallis's system for the administration of civil justice was from the very first inadequate to accomplish more than a small portion of the work it was expected to perform, and that it was soon found necessary to introduce various modifications in that system. The higher courts were from time to time relieved from details of minor importance, the powers of the inferior European courts were increased, the aid of the revenue officers and of assistant judges was called in, the jurisdiction of the native tribunals was largely though very gradually extended, objectionable forms were amended or dispensed with, and more summary processes were introduced, so that scarcely a year had passed since the promulgation of the code of 1793, in which attempts had not been made to remove the grounds of civil controversies, to expedite their adjustment or to reduce arrears of suits, which had nevertheless continued to accumulate. It was the principle of Lord Cornwallis's.

wallis's system to provide for the administration of civil as well as of criminal justice by the almost exclusive agency of European functionaries. The districts into which the country was parcelled out were far too extensive and too populous to be successfully superintended by the individuals to whose charge the judicial administration was entrusted; and where the population amounted, as it did in many instances, to upwards of a million, the duties required from the judge and magistrate were far beyond the powers of the most active and intelligent officer. The difficulties thus experienced have been since augmented in the degree in which the extension of trade and cultivation, the advance in the value of land and the progressive increase of population have multiplied the demands of the public on the time of the civil tribunals. It is obvious that we began by aiming at more than could possibly be accomplished; that the expectation of being able to carry on the administration of justice, civil and criminal, by European agency, was utterly fallacious; that no addition of numerical strength to the European portion of the judicial establishments, which the public finances can at present afford, will do more than yield a partial or temporary relief, and that we must necessarily look to the still more extended employment of natives (subject to European superintendence). The system when originally introduced in the year 1793, was ill calculated to encourage the formation of a class of natives qualified by their education and character to fill responsible situations in the administration of justice; they were employed at first either in matters only of very inferior importance or under the immediate eye of the judges, but as the necessity of having recourse to their assistance became more and more obvious, the original principle was gradually departed from, and a body of native judicial officers has been formed who now exercise very considerable powers. At first they were entrusted only with the decision of suits for money to the extent of 50 rupees, but in the year 1803 a new class of officers, called Sudder Aumeens, was established. They were invested with power to determine claims referred to them for real and personal property to the amount of 100 rupees. In 1814 their powers and those of the Moonsiffs were increased, and their situations rendered in all respects more efficient and respectable. In 1821 they were still more enlarged, the jurisdiction of the Moonsiffs being extended to cases of 150 rupees, and of the Sudder Aumeens to cases of 500 rupees. In 1827 a regulation was passed, by which the Sudder Aumeens were under certain circumstances vested with power to try claims to the amount of 1,000 rupees; so that, as stated in a minute of one of the judges of the Sudder Dewanny Adawlut, nineteen-twentieths of the original suits instituted in the civil courts throughout the country are now determined by native judges The most favourable testimony has been borne to their talents and assiduity by many of the authorities to whom they are subordinate, and in the districts where the inhabitants enjoy the benefit of a comparatively efficient administration of civil justice, it is ascribable in a very extensive degree to the instrumentality of those officers. The Sudder Aumeens are now generally men of experience and legal learning; they are assimilated in religion, manners, habits and customs with the people, and they are generally regarded with respect and confidence both by Europeans and natives. The Moonsiffs, where proper persons have been selected, are likewise found to be extremely serviceable, and are well fitted from the local position which they occupy, not only to render justice acceptable to the great body of the people, but to execute a variety of duties delegated to them in the interior of the districts by the superior tribunals. In order, however, to render them generally trustworthy and efficient, they should be placed on a better footing in respect to emolument. With our past experience, we have every reason to believe that if the Moonsiffs as well as the Sudder Aumeens meet with liberal and due encouragement, the agency of both may be safely employed to a much greater extent than it is at present in the administration of civil justice, and that in course of time they may be entrusted with the disposal in the first instance of all original suits now cognizable by the civil courts. But in considering the extent to which powers might at once be raised, I thought it desirable that they should not take cognizance of suits exceeding 5,000 rupees in value or amount. I ascribed much of the success which had attended our efforts to improve the character of our native officers to the caution with which we had proceeded; increased power was conferred upon them so soon as experience justified it, and in proportion to the confidence reposed in them by their fellow subjects. I proposed, therefore, 1st, That the Moonsiffs should be empowered to decide suits for money and other personal property to the amount of 300 rupees, without any restriction as to the period within which the cause of action might arise beyond that which is at present imposed

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imposed by the regulations on the institution of suits in all other courts, and that they should be remunerated for their trouble to the extent of 100 rupees per mensem. 2dly, That the present Sudder Aumeens should be empowered to decide generally all original cases referred to them, to the extent of 1,000 rupees, as well as cases in appeal from the Moonsiffs, on a monthly salary of 200 rupees, with an increase of 50 rupees for such as might hold the office of Moolavie or Pundit; and 3dly, That a superior class of Sudder Aumeens should be entertained for the trial and decision of civil suits between 1,000 and 5,000 rupees, and with powers to determine appeals from such decisions of the second class of Sudder Aumeens and Moonsiffs as might be referred to them for that purpose. I recommended that they should be selected from the law officers of the provincial courts, or that other individuals, of whatever class or religious persuasion, should be chosen, who might, in the opinion of government, on the joint report of the local commissioner and judge, be deemed qualified for the trust, and that they should receive a monthly allowance of not less than 500 sonat rupees. Such an arrangement, I observed, would provide for the disposal, through native agency, of the whole of the original suits regularly cognizable by the zillah and city courts up to 5,000 rupees. The appeals from the Moonsiffs would be referred to the ordinary Sudder Aumeens, and appeals from the ordinary Sudder Aumeens would in like manner be referred to the principal Sudder Aumeens, with a special appeal in both cases to the zillah or city judge. The latter officers would be at liberty to retain on their own files any suits they might think proper. It would be the special duty of the judge to superintend and regulate the proceedings of the native judges, reporting through the Sudder Dewanny Adawlut periodically the degree of estimation in which they might be held. I recommended that the summary jurisdiction with which the judges were invested in matters of rent should be transferred altogether to the collectors, whose decisions should be open to revision by the zillah and city judges on the institution of a regular suit, the parties still retaining the option of instituting a regular suit in the first instance in any court, instead of having recourse to summary process before the collector. I recommended the gradual abolition of the provincial courts, and that their jurisdiction should be transferred to the Sudder Dewanny Adawlut, which latter should be divided into two courts, one for the Lower, and one for the Upper Provinces. I observed, that unless a new Sudder Court were established in the Upper Provinces, or several new judges added to the old one in Calcutta, the provincial courts must be kept up, an arrangement which would in the end be attended with a much heavier cost, and was otherwise undesirable. To augment the numerical strength of the present Sudder Court would not produce a corresponding increase of efficiency, and the control of the judges over the remote districts of the Western Provinces would be exceedingly imperfect and unsatisfactory. I thought that the office of magistrate might continue united to that of judge, where the civil business of the district was so light as to admit of it; but feeling that the efficiency which the police had at length attained, compared with what it was 20 years ago, in promoting the security both of person and property, was perhaps the greatest blessing which the inhabitants yet enjoyed under the British Government, I did not desire to see the office of the magistrate generally united with that of the collector. I observed, that by several late regulations the criminal powers of the magistrates had been greatly increased, and their duties augmented, and that in many districts the heavy duties of the collector could not be superadded without imminent danger to the public interests. In those provinces where the detailed settlement absorbed, and in the opinion of the best informed persons, would continue for very many years to absorb the attention of the collectors, and where they were in future, by a recent enactment, to undertake the investigation of almost every question which could arise relative to rights and interests connected with landed property, I could not contemplate the conjunction of the two offices in the same individual, without entertaining serious apprehensions, that as heretofore one or other department must suffer in the union. It appeared to me important, therefore, that separate magistrates should be appointed wherever practicable. The following memorandum exhibits, in a concise point of view, the nature and extent of the alterations which would be effected in the system by the measures proposed.

JUDICIAL ESTABLISHMENT.

PRESENT SYSTEM.	PROPOSED SYSTEM.
1. *Moonsiffs* empowered to receive, try and determine suits preferred to them for money and other personal property not exceeding 150 sicca rupees, provided the cause of action shall have arisen within the period of three years previously to the institution of the suit.	Powers extended to 300 rupees, without any restriction in regard to the limitation of time beyond what is contained in the Regulations with reference to suits generally.
2. *Sudder Aumeens* authorized to determine original suits referred to them to the extent of 500, and specially 1,000, and to hear appeals from the decisions of the Moonsiffs.	Powers extended to 1,000 rupees generally, and appeals from the Moonsiffs as before.
3. *Registers* empowered to determine suits up to rupees 500, and specially to any extent referred from the judges' file, as well as appeals from the Moonsiffs and Sudder Aumeens.	Office of Register discontinued, and special Sudder Aumeens established for determining suits from 1,000 rupees to 5,000, and appeals from the ordinary Sudder Aumeens.
4. *Zillah and City Judges* empowered to determine suits to the amount or value of 10,000 rupees, and regular and special appeals from the Register and native functionaries.	Original jurisdiction restricted generally to suits the amount of which is not less than 5,000, and to the cognizance of appeals from the native judicial functionaries; jurisdiction in summary suits for rent transferred entirely to the collector.
5. *Provincial Courts* with original jurisdiction in all cases preferred to them, above the value of 5,000 rupees, and appeals regular and special from the Zillah and City Judges and Sudder Aumeens.	Provincial Courts to be abolished as soon as they shall have completed the business now depending before them.
6. *Court of Sudder Dewanny and Nizamut Adawlut*, consisting of five judges, a register, deputy, &c.	Two Sudder Courts, one for the Lower Provinces on the same establishment as before, and the other for the Western Provinces, to consist of three judges, one register, assistant, &c.

883. It is understood that the improvements proposed in the latter part of that minute have been in a considerable degree acted upon subsequently?—I have reason to know that it has been determined to establish a distinct court of Sudder Dewanny Adawlut and Nizamut Adawlut in the Western Provinces, to limit the original jurisdiction of the zillah and city judges to suits above 5,000 rupees in value, all suits below that amount being rendered cognizable by native judges. The salaries of the native judges have been fixed at different rates, some at 100 rupees a month, some at 150 rupees a month, some at 250 rupees a month, and some at 500 rupees a month. The provincial courts are gradually to be abolished as well as the office of registrar, and summary suits for rent are to be transferred to the collectors. In addition to those changes, it has been resolved to unite the offices of magistrate and collector, to confer police powers on tehsildars, to relieve the revenue commissioners from their duties as criminal judges, and to confide those duties to the zillah and city judges. The latter arrangements were not advocated by me; I do not concur in the expediency of generally uniting the offices of magistrate and collector, or of giving police power to the subordinate revenue officers, and I think that the zillah and city judges cannot perform the duties now executed by circuit judges, without precluding them from the effectual administration of civil justice.

884. Will you state what your objections are to the union of the functions of collectors and magistrates?—The objections are very fully stated in paragraphs 185 to 200 of a letter addressed to the Court of Directors by the government of Bengal, under date of the 22d of February 1827. The chief practical objection in my judgment is, that the collectors of the extensive districts in the ceded and conquered provinces, whose time is already entirely occupied by their other duties, and must continue to be so occupied till the formation of a permanent settlement of the land revenue, cannot adequately perform the additional functions

of a magistrate and superintendent of police. The same objection may likewise be applied to several collectorships in the province of Benares and in the Lower Provinces. Other objections exist, but this is the principal one.

885. Do you think that on principle there is any objection to the union of the functions of justice with those of revenue?—I do; but the objection does not appear such as to prevent the arrangements where the officers may have leisure and capacity to undertake both duties. The objections to vesting tehsildars and other subordinate native officers of revenue with the power and functions of police officers, appear to me very serious, conceiving as I do that they would be more likely to abuse their authority even than the present class of police officers. My own opinion, as to the best mode of administering the internal affairs of our old established provinces is, that there should be a separate judge, a separate collector, and a separate magistrate in each district; this plan has been urged and recommended in paragraphs 201 to 208 of the letter addressed to the Court of Directors on the 22d of February 1827, to which I have already referred.

886. Will you suggest any improvements which occur to you in the system of administering civil justice?—I have no doubt that by degrees still more extensive powers may be safely vested in the native judges, and that in the course of time our European judicial officers ought to have no other share in the administration of civil justice than that of superintending the proceedings and hearing appeals from the native judges. At the same time I repeat, that much of our success in qualifying the natives for such trusts is owing to the manner in which those powers have been gradually conferred upon them. The native judges now decide about nineteen-twentieths of all the causes adjudicated by our civil courts; the delay in those cases does not on the average exceed seven or eight months from the first institution to the decision of the suit. In the remaining cases, which are of higher amount, the delay is undoubtedly great; but generally speaking, the delays of our courts are less injurious, in my opinion, than is supposed in this country. It is of course desirable to expedite the decision of all civil controversies as much as possible consistently with justice; and there are means, in my opinion, by which that object may be promoted. The heavy arrear of civil business in our European tribunals in the Lower Provinces is ascribable chiefly to the precipitation with which the permanent settlement was carried into effect, without sufficiently ascertaining and recording the rights and interests of the various classes of proprietors and cultivators of the soil in relation to each other and to the government. The arrears have been further augmented by growing confidence in our tribunals, by the increased value of land, the increased population, and the march of general prosperity and improvement.

887. When you speak of Europeans superintending the native courts, do you mean that they should be present?—No; I meant merely that they should control and watch over the processes of inferior tribunals, acting as an appellate court, as a court ready to correct errors, to prevent abuses, and to apply a prompt remedy to any evils which might arise.

888. Under such a control, and with a power of appeal hanging over them, you conceive the natives might be fit to carry on the functions of judicature without the presence of Europeans?—Yes, their character and capacity for judicial business is improving every day, but they must be sufficiently encouraged and rewarded. In this case I am persuaded they will prove very trust-worthy.

889. Do you conceive that in that respect in which the natives were unfit, namely moral character, they are improving?—Yes, in connexion with an improved education.

890. State why you conceive that the delay which you admit has taken place to some extent in the administration of civil justice is not so injurious as is occasionally supposed?—I think the delay originates in a great degree in the parties themselves, in both parties being frequently desirous of protracting the decision of the court: suits of large amount may generally be supposed to concern rich individuals, to whom the delay of even two or three years in the realization of a claim is of less importance than of a small amount to a poor man. In the latter class of cases, that is, in 19 out of 20 of the whole number, the delay does not appear very considerable.

891. Do you conceive that means might be taken for expediting the proceedings?—I think so.

892. What

892. What are those means?—By far the greatest part of the business in the zillah courts, and no inconsiderable portion of that in the criminal courts (of the Lower Provinces especially) originates in the want of Regulations explaining and recognizing the different tenures, and of records defining the relative rights, interests and duties of the proprietors, tenants and cultivators of the soil. I am persuaded that not more than one quarter of the business in our civil courts arises from claims or disputes unconnected with land. For the adjustment of mercantile disputes, debts and simple contracts, little more is required than the application of general principles of equity, regulated by a due regard to established usages and customs. What we chiefly want are accurate records and regulations, defining the rights and interests of the cultivators and proprietors of land, in relation to each other and to the government. An intelligible exposition of Hindoo and Mahomedan law would also be useful. It is true that the principles of the law of inheritance, and generally speaking the main branches of the civil law of the Mahomedans, are pretty well known, and do not very frequently give rise to conflicting or irreconcileable opinions amongst the Mahomedan lawyers. By the aid of precedents in cases decided by the Supreme Court and Sudder Dewanny Adawlut, the leading principles of the Mahomedan civil law might be embodied, and might be determined and recognized without difficulty. It is far otherwise, however, with the Hindoo law. On the most important questions connected with the Hindoo law of inheritance, adoption and gift, different commentators give different expositions, and not only pundits of different provinces, but those at the same place, will often give opposite bebustaks on the same question. Some of the most important questions of this description have been decided by the Sudder Dewanny Adawlut. Reports of the cases have been printed, which now form precedents for the guidance of the civil courts, and the Hindoo law may be considered therefore to be fixed as to the specific cases in point. In addition to those cases, the decisions of the Supreme Court in Calcutta, of the Supreme Court and Sudder Adawlut at Madras, and of the Recorder's Court and Court of Ultimate Appeal at Bombay, on questions of Hindoo law, would furnish other adjudicated precedents, some of which might be adopted and recognized as law. Still these cases would be far too few to serve as a solid basis for general legislation, and a long period must elapse before they would materially increase in number and value. To form a plain, practical and efficient code of laws for the administration of civil justice amongst the Hindoos, and perhaps the Mahomedans also, especially in relation to the most important heads, such as inheritance, adoption, dower, gift and some others, the plan suggested by Mr. Mill in his History of British India, appears to me the only one likely to be attended with success. The following extract will show what I mean: "In the first place, as the law, according to what we have already seen, is in a state in which it is to a great degree incapable of performing the offices of law, and must remain almost wholly impotent in a situation in which the deficiencies of law are not supplied by manners, let the law be reformed and put into that state in which alone it is adapted to answer the ends for which it is intended. Let the laws, whatever they may, for the security of existing rights, or the attainment of future advantages, be determined to be, receive what alone can bestow upon them a fixed or real existence; let them all be expressed in a written form of words, words as precise and accurate as it is possible to make them, and let them be published in a book." This is what is understood by a code; without such a code there can be no good administration of justice in such a state of things as that in India; there can, without it, be no such administration of justice as consists with any tolerable degree of human happiness or national prosperity. In providing this most important instrument of justice, no further difficulty will be found than the application of the due measure of virtue and intelligence not to be looked for in the classes whose interests the vices of the law promote. Sir William Jones and others recognized the demand for a code of Indian law, but unhappily thought of no better expedient than that of employing some of the natives themselves, as if one of the most difficult tasks to which the human mind can be applied, a work to which the highest measure of European intelligence is not more than equal, could be expected to be tolerably performed by the unenlightened and perverted intellects of a few Indian pundits. With no sanction of reason could anything better be expected than that which was in reality produced, a disorderly compilation of loose, vague, stupid or unintelligible quotations and maxims, selected arbitrarily from books of law, books of devotion, and books of poetry, attended with a commentary which only adds to the mass of absurdity

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and darkness, a farrago by which nothing is defined, nothing established, and from which, in the distribution of justice, no assistance beyond the materials of a gross inference can for any purpose be derived. To apply the authority of religion, or any other authority than that of the government, to the establishment of law, is now unnecessary, because the great and multiplied changes which the English have made in all the interior regulations of society have already destroyed, in the minds of the natives, the association between the ideas of religion and the ideas of law. But at any time for combining the authority of religion with that of law, nothing more was required than what might still be advisable, namely, to associate the most celebrated of the pundits. For digesting the law into an accurate code, such men would be altogether unqualified; but they might lend their peculiar and local knowledge to him to whom the task is assigned, and they might easily and effectually annex the authority of religion to his definitions, by subjoining quotations from their sacred books, and declaring the words of the code to be the true interpretation of them. The law of the natives, and the minds of its interpreters, are equally pliant. The words to which any appeal can be made, as the words of the law, are so vague and so variable, that they can be accommodated to any meaning; and such is the eagerness of the pundits to raise themselves in the esteem of their masters, that they show the greatest desire to extract from the loose language of their sacred books whatever opinions they conceive to bear the greatest resemblance to theirs. It would require but little management to obtain the cordial co-operation of the doctors, both Moslem and Hindoo, in covering the whole field of law with accurate "definitions and provisions, giving security to all exisiting rights, and the most beneficial order to those which were yet to accrue." The difficulty of successfully executing a task of this nature is considerable. The public officer or officers employed upon it should be in possession of qualifications not ordinarily to be found in the same person, viz. a familiar acquaintance with the habits and feelings of the natives, an intimate knowledge of the Sanscrit language, some, if not a very extensive, acquaintance with the civil laws both of ancient Rome and of the nations of Europe, a clear and comprehensive judgment, and great industry. The promulgation of a code so concocted and supported by the opinion of the pundits and moolvees, as to its general correspondence, in its main features, with the doctrines of Hindoo and Mahomedan commentators, would not shock the prejudices of the natives, although it might be found in some instances to differ from the construction commonly prevailing in some parts of the country, or amongst some tribes and sects, and in others even to be decidedly at variance with principles hitherto more generally recognized. The minute subdivision of real property, which both the Hindoo and Mahomedan laws of inheritance have a rapid and direct tendency to produce, is a very serious evil, and might be beneficially restrained. It might also be rendered imperative that all mutations and transfers of real property, all wills, deeds of dower, gift and adoption, should be recorded in registry-offices established on similar principles to the registry required by law in Scotland, Middlesex, and part of Yorkshire. Benamee transfers or transfers in fictitious names of real property might be guarded against. With regard to Regulations which relate to particular branches of revenue, such as salt, opium, customs, stamps, coinage, or to the duties, powers and functions of different classes of our native officers, or to the forms of procedure in any particular department of the administration, the details of each subject might be consolidated and included in a distinct law, to which all subsequent rules or emendations might be annexed as a supplement. This has already been done in many instances in Bengal, and generally at Bombay. All or most of these measures would be beneficial; but they appear to me to be matters of much less importance than that of defining and recognizing the claims, rights and interests of the various classes of cultivators, farmers and proprietors of the land. To the want of such information is to be ascribed almost all our difficulties in the administration of civil justice, and the chief part of whatever distress and oppression prevails in the Lower Provinces.

893. Would it not be possible to make provision in any code for the various customs of different districts?—Certainly. I do not of course propose that there should be one code for the whole of India, or for all the provinces under one presidency; but by supplying the defect which I stated of the want of records, by defining the rights and tenures of the cultivators of the soil, and the different classes of tenantry, we should do more to diminish the mass of civil business, than by any other measure which occurs to me.

894. Notwithstanding

894. Notwithstanding our administration of civil justice has been defective, do you think it has been sufficiently good to attract the confidence of the natives in general?—I do. Their confidence in the European courts proceeds no doubt from their opinion of our greater integrity, and the superiority of our moral character; but if the natives had the same advantages in those respects, I should consider them infinitely better qualified for the administration of justice in India than any European possibly can be.

895. Do you conceive that the natives would become qualified for the situation of justices of the peace?—I feel more hesitation in giving an opinion as to their fitness at present to exercise the powers of a magistrate, but I see no reason why by degrees they should not be entrusted with duties of the nature alluded to. They are already empowered to take cognizance of, and to punish for petty offences.

896. Would there be an objection to render them eligible to be justices of the peace, at least at the presidencies, leaving it to the local government to select individuals who might be qualified to discharge the duties of the office?—Under the vigilant superintendence of an European officer, the experiment might be tried without material danger, but I do not think they could yet be trusted with extensive magisterial functions, especially at a distance from European superintendence.

897. Are there any defects in the laws on any particular subject which you think require to be removed?—I think it desirable that the laws on the subject of usury should be modified or abolished. Our laws with regard to interest are, that claims upon bonds, &c. stipulating for more than 12 per cent. are void so far as regards the interest; a plaintiff cannot obtain a judgment for interest in such cases, though if the rate of interest has been openly stated on the face of the document, however much it may exceed the legal rate, our courts can give judgment for the principal; if, on the contrary, there be any attempt to elude the law, by a deduction from the loan, or by other disguise, neither principal nor interest can be recovered in our courts. In lieu of this law, I would leave parties at liberty to fix their own terms, without any restraint whatever.

898. You would have the rate of interest wholly unregulated by law, and that that particular agreement should be vitiated as others would be, only by fraud?—Just so.

899. The rate of interest is now much below 12 per cent., is it not?—Among respectable bankers and European traders in large towns, the rate of interest is much below 12 per cent., but in small dealings in the interior among the natives, it is much larger; 24 and 30 per cent. is not at all unusual. The borrowers pay, of course, for the risk which is run by the lenders in violating the law. Another measure which would facilitate the administration of justice has been already adverted to; I mean the registry of deeds in the manner long practised in Scotland. The process also in cases of bond debts, and of other claims on written documents, might be materially simplified, and the decision of such cases greatly expedited. We might limit the minute subdivision of landed property which now prevails to an injurious extent both amongst Hindoos and Mahomedans. Lastly, I would say that every effort should be made to raise the standard of qualification of European judges, as well as of native judges.

900. In what manner do you conceive that the qualifications of the native judges may be raised?—By suitable salaries and a more perfect education. Integrity is in one sense a purchaseable article, and by paying the natives whom we employ more liberally, we shall have a much better chance of securing that qualification in which they are most deficient. By the process of an improved education we are now raising up men infinitely better fitted by their knowledge for the discharge of judicial and other duties than the country has yet furnished.

901. Would the increased emolument have the effect of merely improving those who would otherwise attain those situations, or be candidates for them, or do you think it would be the means of attracting into the profession men of a higher caste?—It would sometimes perhaps attract men of higher rank, and possessing better qualifications, and the enjoyment of an office of considerable emolument would generally render the temptation to be corrupt much less powerful, and would make men careful to avoid the hazard of the loss of their offices by misconduct.

902. With regard to the qualifications of the Europeans who are to exercise judicial functions, what means would you suggest for the improvement of those?—By a more careful selection in England of the individuals who are destined for the civil service generally, and in India by a selection of the very ablest and most competent of those civil servants for judicial offices.

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903. Are not the fittest persons selected in India for judicial situations, generally speaking?—For the higher offices I think they are, but not always for the situation of zillah and city judges. I think that latterly the feeling has been towards appointing the ablest men to the revenue department, the duties of which are indeed highly important, particularly in the Western Provinces.

904. What effect has the institution at Haileybury had with regard to the qualifications of the writers, as evinced in India?—Speaking from a general recollection of the young men of my own standing, and of those who subsequently came out before the College at Haileybury existed, I should say that I have not observed any very material improvement from the education of Haileybury. Better qualified persons for the civil service in India might be obtained by appointing to Haileybury two or even three individuals for every one individual who is ultimately destined for the civil service in India, so that out of 20 or 30 men the 10 best should be selected. It is in vain to deny the fact, that very unfit men have occasionally gone out as civil servants to India. Another suggestion which I have heard is, that officers for civil duties in India should be selected from the general body of military officers in the Honourable Company's service, after they shall have been for a considerable time employed in the country, and their qualifications, talents and capacity shall have been fully developed and ascertained.

905. According to that scheme, all those who are to serve the Company would go out as officers in the army, and be eligible afterwards for civil situations?—Yes; the prize would be so valuable that it would induce a great number of the young officers to study the languages, and to conduct themselves with propriety, and generally to qualify themselves for situations in the civil service; the only danger would be, that undue influence might be used in the selection of the individuals.

906. Would not there be a danger of raising discontent in the army on the part of those not selected?—That danger certainly would exist in some degree; but the same objection may be urged against a selection of officers from the whole body of the army for staff situations, not merely of a strictly military nature, but of a civil nature. Several military men are employed in the political department, and in charge of districts as collectors and magistrates.

907. Would you recommend the adoption of the plans you have proposed; or do you merely suggest them for consideration?—I merely allude to them as deserving consideration, not having formed any very decided opinion upon the subject myself.

908. Recurring to the questions of qualification to be acquired in England by writers going to India, do you conceive that means should be taken of giving a full education in the principles of law to the writers, or some of them; or would it be proper that the selection of European servants for the judicial or other situations should be made only in India?—I am of opinion that it would be desirable that the education of young men destined for the civil service in India should be carried to a greater extent than it is at present in England; that they should not go out to India much before the age of 21 or 22; that they should have every possible advantage of general education in England, without any of their time being sacrificed, as I think it is sacrificed, to the study of native languages; and that the selection ultimately for judicial offices should be made exclusively in India: but I would give, if possible, to those young men who in India make choice of or are selected for the judicial department, special opportunities of attending the superior courts of justice, both the Supreme Court and the Sudder Dewanny Adawlut. Instruction in the general principles of civil law and the laws of evidence would be useful; but I would say, that no one can be well qualified for a judicial office in India without going through some of the details of the revenue department in the interior of the country, as giving them the opportunities of becoming familiarly acquainted with the language, the people, and the usages of the country, and with questions most frequently litigated in our courts of justice.

909. On the supposition that a young man, in the course of education in this country, showed any particular aptitude or inclination for some specific branch of study, do you see any objection to allowing his proving his qualification to go out, by his superior eminence in that department, without exacting from him an average share of qualification in other departments?—I am aware of no objection, provided his general character and past conduct be also satisfactory. A habit of dissipation and extravagance should be a complete disqualification for the service; it has, in individual instances, proved very injurious to the administration of India; and that

is one motive for recommending that civil servants should leave England at a later period of life than they do at present.

910. Have the young writers arriving in Calcutta had opportunities of dissipation and temptations to it, which under a better system might be avoided?—There can be no doubt that the collection together of a number of young men in a place like Calcutta, which affords great facilities for dissipation, has led to much extravagance and much injury to individuals and the public; but of late years, during the administration of Lord William Bentinck, the mischiefs arising from that cause have, in my opinion, been materially diminished, so as not now to form any solid ground of objection to the College in Calcutta. Under the present vigilant superintendence, no young man who is either in a slight degree dissipated or habitually neglectful of his collegiate studies, is permitted to remain in Calcutta, but is immediately removed to a station in the interior of the country, and placed under the eye of some respectable civil servant. Those who do remain in Calcutta, who have no such tendency to dissipation, possess great facilities, by the establishment of the College of Fort William, for the acquisition of the native languages, and the period employed in acquiring those languages is very much shortened in consequence.

911. Do you think that a young man going out so late as 21 or 22 would be able to acquire the native languages sufficiently for the purposes of judicature?—I have no doubt that the acquisition of the languages would be rendered more difficult by the difference of age, but I see nothing to prevent a man at the age of 21 or 22 from acquiring the native languages with sufficient accuracy to transact those duties which would eventually devolve upon him.

912. If a writer does not go out till 21, might he not previously acquire some acquaintance with the rudiments of the languages, without its interfering with his general acquirements?—He certainly could do so; I have known individual instances of men coming out to India well acquainted with the Persian language, who have had no other instruction than that which England afforded to them; but there are so many more facilities for acquiring the languages on the spot, that it is almost a waste of time to study them in England. That time might be devoted to more important studies.

913. Do you think a person arriving there at 22 could acquire the language so as to hold familiar conversation and communication with the natives in their own language?—I see no reason why he should not; the organs of utterance are certainly not so flexible at a more advanced age, and probably he will not speak, as he would by learning at an earlier age, quite so idiomatically or with so perfect a pronunciation, as he would if he learnt the language on the spot at an earlier age.

914. You think it is not at all an insuperable obstacle?—I think it is not.

915. Will you state what is your opinion as to the efficiency of the present system of criminal justice established in the Company's courts; can you suggest any improvement in it?—I entertain, upon the whole, a very favourable opinion of the manner in which criminal justice is administered in the interior of the Company's provinces in the Bengal Presidency; our criminal laws are mild in the degree of punishment they award; prisoners are brought to trial without any great delay; abundant care is taken to guard against their being convicted unjustly; and, upon the whole, I think the system works very well. I am possessed of a memorandum intended to show the operation of the criminal laws and the state of crime under the Bengal Presidency. The Memorandum in question, with the Tables annexed, were prepared by the late lamented and very intelligent public officer, Mr. Edward Strachey, who sent them to me not long before his death. It was his intention to have submitted them to the Committee, as containing a full and satisfactory view of the operation of the criminal laws as administered in Bengal. The Memorandum commences with a short explanation of the system of police and criminal judicature established in the Lower and Western Provinces, explaining the powers and authorities exercised by the magistrates, the judges of circuit, and the Nizamut Adawlut. The Tables exhibit a list of the most heinous crimes ascertained to have been committed in the Lower and Western Provinces of Bengal for a series of years, the number of commitments and convictions in the criminal courts, with the punishments to which those convicted were sentenced. The results are afterwards compared with the convictions and punishments in England and Wales, in Ireland, and in several countries in Continental Europe.

[*The witness delivered in the same, which was read.—See p. 92.*]

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Of late years the punishments formerly applicable to crimes of different denominations have been very much mitigated in severity; extraordinary care is paid to the comfort and health of the prisoners confined in our gaols; our police officers have been furnished with a manual of instructions (Regulation XX. 1817), which I conceive to be valuable in themselves, and to have operated to prevent in a considerable degree abuses which formerly were prevalent among the police officers; and, generally speaking, the whole system of police and administration of criminal justice has greatly improved of late years, and is in practice very efficient. I am of opinion that the use of oaths in our courts of justice might be abandoned without injury, if not with advantage; the great cause of failure in the administration of criminal as well as of civil justice is the habitual disregard for truth, which unhappily pervades the bulk of the native community, and the little security which the obligation of an oath adds to the testimony of witnesses. I do not believe that this characteristic vice of the natives of India has been fostered or increased by the establishment of our courts of justice, as is generally imagined; the same vice has been found to prevail to at least an equal extent in Mysore, in the Mahratta country, and in other parts of India, to which our authority has not extended, and where our institutions were totally unknown; false testimony has, in certain cases, been directly encouraged and approved by the sanction of the great lawgiver of the Hindoos; the offence of perjury can be expiated by very simple penances, and the inhabitants of India generally must undergo a great moral regeneration before the evil which saps the very foundations of justice, and bars all confidence between man and man, shall be effectually remedied. My own impression is, that, generally speaking, the moral sanction of an oath does not, especially among the lower classes, materially add to the value of native testimony; that the only practical restraint on perjury, is dread of the punishment prescribed by law for that offence, and that the fear of consequences in a future state, or the apprehended loss of character and reputation amongst their countrymen, has little effect in securing true and honest testimony on the part of those who may be influenced by the bias of fear, favour or affection. I think the experiment of dispensing with oaths in civil and criminal cases of minor importance might be tried in the first instance, and afterwards extended, if it succeeded, to cases of higher importance. Already persons of respectability are exempted from taking an oath in our courts of justice on signing a solemn declaration, prescribed by the Regulations. Retrospective oaths are no longer taken by the law officers of our civil and criminal courts; and the ministerial native officer of the courts of judicature, and other native officers employed in the judicial or revenue departments, or in any public office whatsoever, are no longer compelled to take and subscribe an oath previously to entering upon the discharge of the duties of the office, but are now required only to subscribe a solemn declaration to the same effect. Every effort has been made by the government to promote a knowledge of our laws, by publishing, both in the English and native languages, abstracts and digests of them, as well as precedents of cases decided by the highest tribunals, and by instructing those natives who are destined for public situations in the principles of our judicial administration, as far as it can be done in the colleges and seminaries established by government. The progress of education in India within the last six or eight years, has been very rapid; and if funds could be afforded, a much larger supply of native officers, fitted for the administration of the affairs of the country, might be furnished. I do not think that there is any chance of the English language being introduced generally, or being made a substitute for the Persian language in our courts of justice; it might indeed be brought into use by degrees in the districts immediately proximate to Calcutta, but even then I should doubt the advantage or utility of a change.

916. Is the evidence of witnesses who do not understand Persian, put down in the Persian language, and in that only?—Every witness has the option of having his evidence taken down in Persian, or in the language or dialect with which he is most familiar, and in Bengal, I believe it to be the general practice to take down and record the evidence of the Hindoo natives of Bengal in the Bengalese language. Mahomedans, who speak the Hindostanee language, generally have their evidence taken down in Persian; the Hindostanee language having no proper character of its own, and Persian being understood by every Mahomedan of education. In the Western Provinces the dialects are various, and the Naguree character cannot be written very rapidly. On these accounts the evidence is, I believe, generally recorded in the Persian language.

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917. You have stated your opinion as to the present state of civil and criminal justice in the courts of Bengal, and have suggested some improvements. On the supposition that there were an increased number of Europeans, either as settlers or as mere residents in the interior of the country, do you conceive that the present courts, or generally the present judicial system of the country, could remain, or that the improvements to which you have adverted could be in that case successfully introduced?—My answer to that question would be guided a good deal by the number of Englishmen likely to proceed to India. If the number were small, I should not consider any changes exclusively for the benefit of those few individuals necessary; if the number, on the contrary, was very considerable, and if it were designed to encourage the influx of Englishmen into the interior of India, then undoubtedly some changes would be desirable; but whatever changes are effected, if they are really improvements, should be shared by the natives in an equal degree with Englishmen. I think that we ought not to legislate with a special regard for Englishmen, and that the natives have a superior claim to consideration in questions of improving our system for the administration of justice in India. At the present moment foreign Europeans, Frenchmen, Dutchmen and Germans, of whom there are many individuals in the interior of our provinces, are subject to our laws and tribunals, civil and criminal, on precisely the same footing as the natives of India, and I have never heard of any serious complaints upon that point; at the same time, whatever improvements in the laws themselves or their administration may be desirable, should I think be left to the local administration in India, and should not emanate, except as regards general principles, from England. If the Parliament of Great Britain could be satisfied with leaving the legislative powers in the hands of the Governor-General and Council exclusively in India, I should prefer that to a Legislative Council; but if, as is perhaps to be expected, such should not be considered desirable, I see no objection to the plan proposed in Bengal of establishing a Legislative Council, comprising the judges of the Supreme Court and the members of government; nor should I see any objection to the admission of other persons into the Council, provided they were to be selected by the government in India, with the approbation of the home authorities.

918. If increased facilities were given to the entrance of Europeans into the interior of the country, and to their residence and settlement, do you think that a materially increased number of British subjects would be found to avail themselves of such facilities?—My impression is, that very exaggerated notions are entertained in England both of the advantages and disadvantages likely to result from affording increased facilities to the admission of British subjects into the interior of India. I do not think there would be any great influx of Englishmen, under any advantages which could be held out to them in India, or that they would bring any great accession of capital to that already existing there; and I do not, therefore, anticipate either any large benefits or any considerable injury from such a change in the present system.

919. What are your particular reasons for supposing there might not be a considerable influx of Europeans into India, if there were unlimited powers given to them to resort thither?—I think that of late years those who were desirous of settling there have had little or no difficulty in doing so. The government of Bengal has rarely, if ever, refused the application (however contrary to law) of individuals who wished to go into the interior of the country; and the Board of Control have, I believe, granted permission in instances in which it had been refused by the Court of Directors. My opinion that no capital will be brought from England into India arises from little or none having been brought hitherto, even at periods when interest has been at a much higher rate than it now is.

920. Do you think more capital would not go to India if the restriction on Europeans resorting to India was altogether taken away?—I do not think that capital would be sent from England, but I think that capital which would be otherwise remitted to England would probably remain in India.

921. Do you not think that Europeans without capital, persons of broken fortunes and character, might be tempted to go out as adventurers?—That is a mischief to be apprehended; but I think that they would fail of success there, and that their residence would be of short duration.

922. Might they not in the meantime create disturbance in the interior of India,

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India, if they were allowed indiscriminately to go there?—I think if there were no power vested in government to remove them that would be the case.

923. You think that a discretionary power ought to be vested in the government of India to remove Europeans who disturbed the peace of the country?—I would say, it is not necessary to remove them from India, but that a discretionary power should be vested in the government of removing them from the interior of the country to the presidency. I think that permission should be obtained by individuals wishing to go from Calcutta into the interior, and that the government should have the power of removing individuals grossly misconducting themselves from the country to the presidency; Europeans might be guilty of violent, insulting and offensive conduct, which though not perhaps punishable by law, might be extremely irritating and distressing to the natives.

924. You think that might answer the purpose without the power of deportation?—Yes, I think that the latter would then be unnecessary. So long as the government could remove them from the interior to Calcutta, the chief cause of danger would cease.

925. Supposing, for argument sake, an increased number of Europeans in the interior of the country subject to provincial judicature, do you think it would be possible in that case to extend the powers of employment of natives as judges in the provincial courts in the manner contemplated by some of your previous answers?—I think that under no circumstances would an Englishman residing in the interior of the country like to be subjected to the jurisdiction of a native judge either civil or criminal.

926. Do you think it advisable that he should be?—I cannot say that I do; unless the number of Europeans were great, I see no reason why an European judge should not be associated with a native judge in the cognizance of the few cases where Europeans were parties, the other parties being natives.

927. How far are foreign Europeans who reside in the interior of the country subject to the jurisdiction of the Company's courts?—In criminal cases they are subject like the natives to the jurisdiction of the Magistrates' Court, the Court of Circuit and the Nizamut Adawlut, all of which are superintended by British European subjects, and are not liable to be sentenced to punishment by a native. The only natives who are vested in any degree with the administration of criminal justice are the Sudder Aumeens, to whom petty cases are referred, assaults and trespasses and petty thefts and slight misdemeanors, at the discretion of the magistrate. In such cases they can award a judgment of imprisonment not exceeding 15 days, and a small fine, but not corporeal punishment.

928. May those judgments be carried into effect without the authority of the magistrate?—The parties have a right to appeal to the magistrate from them, but if there is no appeal they are carried into effect.

929. Would Europeans, not British subjects, be subjected to those persons?—If the magistrate chose to refer the case to them they would, but that has rarely, if ever, been done, and I think it would be generally considered objectionable. In civil cases, a foreign European would have his claim decided precisely in the same manner as the natives themselves.

930. Has the circumstance of a foreigner, being subject in civil cases to the jurisdiction of the country courts, been found to operate as an obstacle to foreign Europeans settling or residing in those districts?—No, I do not think that their being subject to those courts has operated in the slightest degree to prevent their settling in India. Generally speaking, I should say the magistrate would not refer the cases of foreign Europeans to native judges, but would rather retain them on his own file, and this not from consideration to the European, but to the native judge himself; the danger being, in my opinion, that the native judge would either from fear or other motive be inclined to do more for the European or British subject than for the native.

931. Do you think that the employment of the natives in the administration of civil justice in India beyond that you have mentioned, would be satisfactory to the natives themselves?—I think that the natives employed as judges will, if properly treated and remunerated, merit and receive increased confidence from their countrymen as well as from Europeans, and this in the administration of criminal as well as of civil justice.

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932. Can you give the Committee any information with respect to the costs of suit in the country courts of Bengal?—The amount of the expense to which the parties are subjected in the adjudication of cases in our civil courts in the interior of the country, has, I think, been misunderstood; the costs incurred by both parties in civil suits cognizable in the courts of Moonsiffs and Sudder Aumeens, which vary in their value from 10 to 500 rupees, or from 1 *l.* to 50 *l.* sterling, including the expense of both parties from the commencement to the conclusion of the suit, amount on an average to 22 per cent. In suits from 500 to 5,000 rupees, or in those ordinarily cognizable by the Zillah Judges, the costs to both parties, as above explained, average about 16 per cent. of the value of the thing litigated. In the class of suits tried by the Provincial Judges, the expense is, on the average proportion, nine per cent. In suits cognizable by the Sudder Dewanny Adawlut, about six per cent. Those results were founded on official inquiries made in the year 1818; they include all authorized costs and expenses of every description charged to both plaintiff and defendant, the institution fee, the fees on exhibits and processes of all kinds, stamps, paper, pleader's fees, allowances to witnesses, &c. The amount is charged in the decree to the plaintiff or to the defendant, or divided between the parties, according to the nature of the decision. The expense, considerable as it appears in cases below 500 rupees, is not heavy, when compared with that incurred by litigants in courts of law or equity in England in contested claims to a similar amount.

933. If a suit goes through all its stages, the per-centage must be added in each court?—Yes; but in appeals the expense of taking fresh evidence is rarely incurred, and the pleadings are much shorter.

934. Are you favourable to the mode of trying by punchayet?—The subject of the punchayet has been very fully discussed in paragraphs 33 to 72 of a Despatch, dated 22d February 1827, from the Bengal Government to the Court of Directors. That Despatch contains a general review of the judicial administration, civil and criminal, under the Presidency of Bengal; and I beg leave to refer to it for my sentiments generally on the actual state, and the means of improving our judicial system. See Appendix.

I am adverse to the introduction of punchayets as a formal and legalized part of our system for the settlement of claims to real or personal property, but as an institution for regulating questions of caste and religious discipline, of alleged breaches of the conventional rules or bye-laws of trades, professions, societies or classes of people united for civil or religious purposes, I consider the punchayet to be highly useful; it exercises a species of jurisdiction for which our tribunals are particularly ill qualified, and it is very important that the jurisdiction should remain as long as possible with those to whom it is confided by the voluntary acquiescence and submission of the parties most deeply interested.

It is a subject of regret that the natives can rarely be prevailed upon to submit ordinary civil controversies to the adjustment of a punchayet by arbitration.

Every European judge urges and encourages parties in suits before him to adopt this course, but with very little success. I may observe, that the Bombay Regulations authorize the European judges presiding over civil or criminal courts to seek assistance, whenever they may desire it, from respectable natives, by employing them as assessors; but without allowing their opinion to bind or control the final decision of the judge.

I think that a similar rule might be adopted with advantage in the courts under the Bengal Presidency.

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TABLES intended to show the Operation of the CRIMINAL LAWS and the State of CRIME in BENGAL; referred to in the Evidence of *W. B. Bayley*, Esq., p. 87.

REMARKS.

THE countries here referred to are not the whole territory under the Bengal government, but that part of it only (called the Lower and Western Provinces) which is subject to the General Regulations.

Some explanation of the system of police and criminal judicature established in those countries is necessary before the Tables are particularly noticed.

The police jurisdictions under darogahs were originally intended to include spaces of about 20 miles square, but they are of greater or less extent as circumstances require. There are from 15 to 20 thannahs or darogahs' stations in a zillah, the total number being in the Lower Provinces near 500, and in the Western near 400. At each station under the darogah are a mohurer or writer, and a jemadar, with from 20 to 50 burkundauzes, peons, or irregular soldiers. It is not to be understood that the whole business of the police is performed by these establishments. The zemindars or their agents, or other local officers or servants under them, are required to give immediate information at the principal police station of all crimes committed within their limits, and the duty of tracing and apprehending criminals is chiefly performed by the village officers or servants under the occasional direction and supervision of some person from the thannah.

The darogahs report their proceedings regularly to the magistrate, and receive orders from him. Their principal duties are to receive criminal charges, to hold inquests, to forward accused persons with their prosecutors and witnesses to the magistrate, and generally to perform such acts as the regulations prescribe with a view to the discovery, apprehension and ultimate trial of offenders. The darogahs are prohibited from taking cognizance of charges for adultery, fornication, calumny, abusive language, slight trespass, and inconsiderable assaults; persons who prefer such complaints are to be referred to the magistrate.

The magistrate's duty is to apprehend all disturbers of the peace and persons charged before him with crimes and misdemeanors; he is authorized to try complaints for certain offences, and to punish to a certain extent. In other cases he commits offenders to be tried before the Court of Circuit. In cases of burglary, theft or other depredations not amounting to robbery by open violence, and of affrays unattended with aggravating circumstances, the magistrates are empowered to inflict punishment as far as two years' imprisonment, with hard labour and stripes with a rattan. For other offences the magistrates are empowered to punish as far as imprisonment for one year, or fine not exceeding 200 rupees. The crimes for which magistrates are authorized to inflict these punishments are in the regulations only, referred to generally in these words: "In all cases of conviction before them of any criminal offence punishable by the Mahomedan law and the Regulations,"* magistrates' assistants, when specially authorized by government, are empowered to punish to the extent of imprisonment for a year, or 200 rupees fine; and in cases of theft, 30 stripes with a rattan. Assistants not vested with special powers are authorized to punish in various cases of petty offences to the extent of 15 days' imprisonment, and a fine of 50 rupees, commutable, if the fine be not paid, to 15 days further imprisonment; and in cases of petty theft, to the extent of 30 stripes with a rattan, and a month's imprisonment. The Hindoo or Mahomedan law officers of the Zillah Courts also are empowered to try petty cases referred to them by the magistrates, and to inflict pnnishment to the extent allowed to assistants not vested with special powers. There were in 1825, in the Lower and Western Provinces, including Cuttack, 63 stations of magistrates and joint magistrates.

The Courts of Circuit, before the changes introduced in 1829, consisted each of four or more judges, with two Mahomedan law officers. There were four of these tribunals at principal stations in the Lower Provinces, and two in the Western. When the judges were on circuit, one of them, with a law officer as an assessor, formed a court, and held half-yearly sessions and gaol deliveries at each station, the judges going in rotation within their own divisions. Before this court all prisoners committed or held to bail by the magistrate were tried. The number of stations of magistrate and joint magistrates visited by them, were 29 in the Lower Provinces, and 21 in the Western. The duties of the circuit are

* The Regulations, however, do not specify what those offences are which are punishable by the Mahomedan law, nor do they require that any reference should be made by the magistrate to a Mahomedan law officer, as in the Court of Circuit; and the offences declared by the Regulations to be punishable by the magistrates are spoken of merely as petty offences; such as abusive language, calumny, inconsiderable assaults, or affrays and petty thefts.

are in future to be performed by a commissioner; but the rules for the conduct of this officer as a judge of circuit are generally the same as the old ones. When the proceedings on a trial are closed, the law officer gives his futwa, or law exposition on the case. If the futwa acquit the prisoner, the judge, if he concur in the acquittal, orders the prisoner to be released. If the futwa declare the prisoner guilty, the judge, if he concur, and is empowered by the Regulations to pass final sentence in the case, passes sentence accordingly. If he disapprove the futwa, or is not authorized to pass a final sentence, he refers the proceedings to the Nizamut Adawlut. The judge of circuit is competent, in certain cases, to pass sentence to the extent of 14 years' imprisonment, and corporeal punishment. If the prisoner be liable to perpetual imprisonment, or the punishment of death, the proceedings are sent to the Nizamut Adawlut; in the former case sentence is passed by the judge of circuit, but it requires the confirmation of the Nizamut Adawlut, and in the latter he does not pass sentence. The Mahomedan law (notwithstanding the futwa) is not always the guide of the circuit judge, it is modified by many enactments of the Regulations, and it is according to the Regulations, and not, strictly speaking, according to the Mahomedan law that criminal justice is administered in the Courts of Circuit. These courts are bound to conduct their proceedings under prescribed rules. They are, moreover, vested with powers of superintendence and control over the magistrates within their respective divisions. They can call for the magistrate's proceedings, and pass such orders on them as they think proper. The judges on circuit, after their half-year goal deliveries at every zillah station, make a report to the Nizamut Adawlut, comprising an account of all such matters as they deem of importance to communicate relating to the police and administration of criminal justice in each zillah, with any propositions for improvement which they may think fit to make, and the Nizamut Adawlut forward the reports with their comments to Government.

The Nizamut Adawlut, or superior criminal court stationed at Calcutta, has for some years past consisted of five judges, with a sufficient number of law officers. By this court orders or sentences are passed on trials referred to them by the Court of Circuit. They are empowered to mitigate punishments, and in cases not specially provided for, they can inflict on criminals, punishment to any extent short of death. They superintend and control the proceedings of the Courts of Circuit and the magistrates; they take cognizance of all matters relating to the administration of justice in criminal cases, and to the police of the country, and they expound the Regulations in all doubtful points.

The powers of all the judicial officers have been from time to time defined and modified by various regulations, and rules of procedure, with every check against abuse, and every safeguard for justice that could be devised, have been prescribed. In every case provision is made for the due reception of all evidence on both sides, all the proceedings are recorded, and all (except those before the Nizamut Adawlut) are subject to a revision by a superior court.

Although all final sentences of death, or perpetual imprisonment, are passed by the judges of the Nizamut Adawlut, the opinions of the judges of circuit, of the law officers, of the Court of Circuit, and of the law officers of the Nizamut Adawlut, must be submitted to them with the trial in every case, and must be considered before such sentences can be passed. Under the checks thus provided, the fate of persons subject to the extreme penalty of the law is decided with the most scrupulous care and humanity *.

In

* The manner in which this duty is performed in Bengal will be seen from the following account:

In five years, viz. from 1816 to 1820, the cases of 734 persons, charged with murder in the Western Provinces, were referred to the Nizamut Adawlut; of these, 307 were acquitted, 349 were sentenced to death or perpetual imprisonment, and 78 to inferior degrees of punishment.

In 325 cases, the decisions of the judges of the Nizamut Adawlut were opposed to one or more of the inferior judicial authorities; that is to say, the circuit judge, the law officer of the Court of Circuit, law officers of the Nizamut Adawlut.

In 78, their decisions were opposed, not to the conviction of the prisoner, but as to the degree of his criminality and his punishment.

In 331, their decisions were not opposed.

Of the opposed decisions, 37 were acquittals, and 288 convictions.

Of the 37 acquittals, 7 were opposed to the opinion of the judge of circuit alone, 2 to the opinions of the judge of circuit and his law officer, 17 to the opinion of the law officers of the Court of Circuit alone, 1 to the opinions of the law officers of both courts, and 10 to the opinions of the law officers of the Nizamut Adawlut alone.

Of the 288 acquittals, the opposed opinions were, 70 of the judge of circuit alone, 99 of the judge of circuit and the law officers of both courts, 41 of the judge of circuit and his law officer, 21 of the judge of circuit and law officers of the Nizamut Adawlut, 37 of the law officer of the Court of Circuit alone, 20 of the law officers of both courts.

In 349 convictions by the judges of the Nizamut Adawlut, their sentences were in opposition to the judge of circuit in 9 cases, to the law officers of the Court of Circuit in 20, to the law officers of the Nizamut Adawlut in 11.

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In some parts of Europe (England and France for example), where information affecting the interests of men in society is extensively and easily diffused, most of the offences highly injurious to individuals or to the community are made generally known soon after they are committed, but no accounts of them are recorded; and it is only by statements of the operation of the criminal courts that any sort of approach can be made to an official knowledge of the number of crimes committed throughout the country. In India, however, the state of things is different, and unless through the intervention of officers employed by government, the commission of offences is little known beyond the immediate neigbourhood of the place where they have occurred. It is the special care of the Bengal government to procure an account of every considerable crime committed in the country, whether the culprit be brought before a tribunal or not; but the statements of the number of persons convicted of different crimes, especially those referred to the Nizamut Adawlut, are yet in an imperfect state.

The yearly reports made to government by the superintendents of police contain statements of the number of heinous crimes committed in each zillah or magistrate's jurisdiction, distinguishing them under several heads, of the computed value of property robbed or stolen, and recovered; of the number of persons supposed to be concerned in the crimes committed; of the number convicted and acquitted before the Courts of Circuit and the magistrates, their assistants and law officers, and of the number of persons in confinement in the several gaols at the end of the year. The superintendent sends also occasionally special reports to government, and he corresponds, as circumstances may require, with the magistrates who are subject to his control.

These statements, however diligently compiled, are subject to errors from various causes. Crimes committed may have been concealed from the native police or from the magistrate, or they may have been misrepresented; the same sort of crime may have been arranged under one head by one officer, and another head by another; often it cannot be known whether crimes were committed as stated, till after a full investigation of circumstances, perhaps not till after trial of the accused.

From these documents the Tables (A.) (B.) and (C.) are taken. The others marked (D.) and (E.) which contain lists of crimes, with the number of persons convicted of such crimes, and those marked 1 to 9, which contain lists of persons punished, without any account of the crimes for which they were sentenced, are, with the exception of No. 3, and those connected with it, extracted from statements of the operation of the criminal courts which were furnished by the Nizamut Adawlut.

The following is an account of the contents of these Tables:

TABLES

In 307 acquittals by the judges of the Nizamut Adawlut, their sentences were in opposition to the judge of circuit in 231 cases, to the law officer of the Court of Circuit in 197, and to law officers of the Court of Circuit in 140.

There are 99 instances of acquittal by the judges of the Nizamut Adawlut, in opposition to the unanimous opinions of the other judicial authorities; but not one instance of conviction.

ABSTRACT OF THE ABOVE.

- Total Cases referred, 734. (*a*)
  - Opposed 325.
    - Convictions, 37.
      - Opposed by the judge of Circuit alone - - 7
      - Ditto - ditto - and law officer of ditto - - 2
      - Ditto - by law officer of Circuit alone - - 17
      - Ditto - by law officers of both courts - - 1
      - Ditto - by Nizamut Adawlut alone - - - 10
    - Acquittals, 288. (*b*)
      - Ditto - by judge of Circuit alone - - - 70
      - Ditto - ditto - and law officers of both courts - 99
      - Ditto - by judge and law officer of Circuit - 41
      - Ditto - ditto - and law officers of Nizamut Adawlut 21
      - Ditto - by law officer of Circuit alone - - 37
      - Ditto - ditto - and law officers of Nizamut Adawlut 20
  - Opposed in part, 78.
  - Not opposed, 331.
    - Convictions - 312
    - Acquittals - 19

(*a*) Cases are referred, either because there is a difference of opinion between the judge of circuit and his law officer as to the guilt of the accused, or because the accused having been convicted of murder by their concurrent opinions, is liable to a sentence of death, which can be passed by the Nizamut Adawlut only, or of perpetual imprisonment, which requires the confirmation of the same authority.

(*b*) The number of acquittals by the judges of the Nizamut Adawlut, against the opinion of the circuit judge, as to the guilt of the accused, seems great; but as the circuit judge merely gives an opinion, and has not the responsibility of the capital sentence, he probably refers many in which he has a strong impression of the prisoner's guilt, but doubts whether the evidence is sufficient to convict him.

TABLES referring to Statements of Crimes reported.

(A.) Contains a list of the most heinous Crimes ascertained to have been committed in the Lower and Western Provinces of Bengal from 1818 to 1828; extracted from the periodical statements of the superintendents of police.

(B.) An Abstract of (A.), showing separately, 1st, the number of depredations with murder; 2d, those with wounding; 3d, those with open violence without personal injury; 4th, the number of murders; 5th, of homicides; 6th, of affrays attended with loss of life.

(C.) A Summary of (A.) and (B.), showing the Crimes as in (B.) committed in nine years, ending with 1826, and in the years 1827 and 1828; also yearly averages in the two periods, the crimes of the Lower Provinces being set down separately from those of the Western.

TABLES referring to the operation of the Criminal Courts.

Crimes. Convictions in lower courts. (D.) Contains a Statement of the Offences for which persons were convicted before the Courts of Circuit in the Lower and Western Provinces together, from 1816 to 1826, with a list of the persons convicted.

(E.) A similar statement referring to the courts of the magistrates for 1826 and 1827 for the Lower and Western Provinces separately.*

TABLES referring to the Number of Persons sentenced, and their Punishments.

No. 1. Contains a list of persons convicted before the Criminal Courts in Bengal in several years, viz. before the Nizamut Adawlut, from 1816 to 1827, before the Courts of Circuit, from 1816 to 1826, and before the Magistrates, from 1824 to 1827, with the punishments to which those persons were sentenced.

No. 2. List of persons sentenced to Imprisonment for above seven years (not for life); ditto, above one year, not above seven years; ditto, not above one year; abstracted from the Table, No. 1.

No. 3. Extract of statements ordered by the House of Commons to be printed, showing the number of persons sentenced to punishment in England and Wales for seven years, ending with 1828.

No. 4. Summary of No. 3, arranged so as to correspond in form nearly with No. 2.

No. 5. Summary showing the number of persons sentenced for four years, viz. by the Nizamut Adawlut, and by the Magistrates, from 1824 to 1827, and by the Courts of Circuit, from 1823 to 1826, taken from No. 1.

No. 6. Extract from No. 3, showing the sentences for the last four years, viz. from 1825 to 1828. These compared with No. 5.

No. 7. Yearly averages in the periods of four years, from No. 6, with the same in proportion to the supposed population of the two countries.

No. 8. List of sentences to Death and Transportation, or Imprisonment for life, from 1816 to 1828, for the Lower and Western Provinces, separately extracted from the statements of the Nizamut Adawlut.

No. 9. Summary for six years, ending with 1827, in Lower and Western Provinces, separately extracted from No. 8, with a corresponding summary for the same six years, extracted from No. 3; also yearly averages of these numbers, and the same in proportion to the supposed population of the Lower and Western Provinces, and England and Wales, respectively.

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* No statement can be given referring to the Courts of Circuit for the years 1827 and 1828, or for the Lower and Western Provinces separately; nor any corresponding to that of (E.) for other years besides 1826 and 1827. No similar statements can be given for the Nizamut Adawlut.

(A.)

NUMBER of HEINOUS CRIMES in the *Lower* and *Western* Provinces of *Bengal*, as reported by the Superintendents of Police, from 1818 to 1828.

LOWER PROVINCES:	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.	1828.
Decoity with Murder	20	18	21	24	21	25	16	16	21	10	16
Ditto - Torture	7	17	29	12	7	16	11	11	12	10	10
Ditto - Wounding	41	67	53	34	40	32	39	38	44	37	41
Simple Decoity	134	212	141	141	105	118	117	89	105	121	100
River Decoity	15	25	18	16	19	12	19	Included in the above.			
Total Decoity	217	339	262	227	192	203	201	154	182	178	167
With Murder:											
Highway Robbery	3	9	9	12	7	5	8	13	10	6	13
Burglary	2	2	2	2	-	2	2	6	1	3	1
Cattle Stealing	2	-	-	1	-	-	1	-	1	1	—
Theft	2	5	18	13	28	22	23	22	25	30	16
With Wounding:											
Highway Robbery	9	14	23	13	7	11	8	12	15	15	15
Burglary	10	8	14	9	6	13	21	11	17	14	18
Cattle Stealing	-	1	1	-	1	1	-	1	2	-	1
Theft	6	8	11	9	5	4	10	15	16	23	10
Without personal violence, property stolen exceeding 50 rupees:											
Highway Robbery	14	15	34	17	8	11	8	3	6	15	5
Burglary	657	692	659	607	686	686	646	596	586	564	505
Cattle Stealing	21	53	62	44	41	57	80	75	76	98	63
Theft	555	599	550	608	629	678	686	647	726	645	587
Wilful Murder	138	139	99	109	128	118	134	105	119	98	98
Homicide not amounting to Murder	50	74	75	90	89	86	72	131	100	126	122
Violent affrays, attended with loss of life, originating in disputes regarding boundaries or the possession of lands, crops, wells, &c.	23	12	11	24	18	35	44	13	12	8	16
Violent affrays, originating in causes distinct from those mentioned in the preceding column	22	4	1	4	7	1	-	8	9	11	12
WESTERN PROVINCES:											
Decoity with Murder	8	18	10	14	20	12	19	11	12	20	12
Ditto, with Wounding or Torture	21	26	16	10	17	13	22	22	35	14	13
All other Decoities unattended with personal violence	14	26	20	15	16	22	28	18	37	14	20
Total Decoities	43	70	46	39	53	47	69	51	84	48	45
Murder by Thugs	10	10	18	9	27	21	18	19	58	38	23
With Murder: Highway Robbery, Burglary, Cattle Stealing, Theft	56	77	105	89	65	101	97	94	132	95	83
With Wounding: Highway Robbery, Burglary, Cattle Stealing, Theft	311	320	306	278	177	211	211	267	344	251	234
Without personal violence, property stolen exceeding 50 rupees: Highway Robbery, Burglary, Cattle Stealing, Theft	1,495	1,694	1,781	1,648	1,723	1,672	1,768	1,776	1,914	1,815	1,581
Wilful Murder	185	183	128	156	106	113	112	92	107	118	137
Homicide not amounting to Murder	61	88	88	92	93	119	102	101	108	86	97
Violent affrays, attended with loss of life, originating in disputes regarding boundaries or the possession of land, crops, wells, &c.	25	35	44	47	41	33	40	21	36	22	35
Violent affrays, originating in causes distinct from those mentioned in the preceding column	24	22	38	50	41	20	39	21	23	32	29

(B.)

ABSTRACT of the Chief Parts of Table (A.

	LOWER PROVINCES.				WESTERN PROVINCES.			
	1818 and 1820.	1821 and 1823.	1824 and 1826.	1827 and 1828.	1818 and 1820.	1821 and 1823.	1824 and 1826.	1827 and 1828.
Depredations with Murder (*a*) - -	113	162	165	96	312	358	460	271
Ditto, with torture or wounding (*b*)	319	220	283	194	1,000	706	901	512
Ditto, with open violence, but without personal injury (*c*) - -	545	411	330	221	60	53	83	34
Murder without depredation (*d*) -	376	355	358	196	496	375	311	255
Homicide not amounting to Murder -	199	265	303	248	237	304	311	185
Affrays with loss of life - - -	73	89	86	47	188	232	180	118

(*a*) Including the crimes referred to in the preceding Table under the heads "Decoity with Murder," "Murder by Thugs," and "Highway Robbery," "Burglary," "Cattle Stealing," and "Theft with Murder." The head "Murder by Thugs," occurs in the Western Provinces only.

(*b*) Including "Decoity with Wounding," or "Torture," and "Highway Robbery, &c. with Wounding."

(*c*) Including "Simple Decoity," "River Decoity," and all other Decoities unattended with Personal Violence.

(*d*) "Wilful Murder."

The heads "Highway Robbery, Burglary, Cattle Stealing, and Theft without Personal Violence," are not referred to in this or in any of the following Tables. It is supposed that the accuracy of the Reports in regard to such offences cannot be relied on.

(C.)

TOTAL NUMBER and YEARLY AVERAGES of Table (B.), showing the NUMBER of OFFENCES in a Period of Nine Years, from 1818 to 1828; compared with those in the Years 1827 and 1828.

	LOWER PROVINCES.				WESTERN PROVINCES.			
	Total in 9 Years, ending with 1826.	Total in 1827 and 1828.	Yearly Averages.		Total in 9 Years, ending with 1826.	Total in 1827 and 1828.	Yearly Averages.	
			In 1st Period.	In 2d Period.			In 1st Period.	In 2d Period.
Depredations with Murder - -	440	96	$48\frac{8}{9}$	48	1,130	271	$125\frac{5}{9}$	$135\frac{1}{2}$
Ditto, with torture or wounding -	822	194	$91\frac{3}{9}$	97	2,607	512	$289\frac{6}{9}$	256
Ditto, with open violence, but without personal injury - - -	1,286	221	$142\frac{8}{9}$	$110\frac{1}{2}$	196	34	$21\frac{7}{9}$	17
Murder without depredation - -	1,089	196	121	98	1,182	255	$131\frac{3}{9}$	$127\frac{1}{2}$
Homicide not amounting to Murder -	767	248	$85\frac{2}{9}$	124	852	185	$94\frac{6}{9}$	$92\frac{1}{2}$
Affrays with loss of life - - -	248	47	$27\frac{5}{9}$	$23\frac{1}{2}$	600	118	$66\frac{6}{9}$	59

W. B. Bayley, Esq.
16 April 1832.

(D.)

COMPARATIVE STATEMENT of SENTENCES for OFFENCES against PROPERTY and those against the PERSON, and other Crimes, passed by the Courts of Circuit in *Bengal*, from 1816 to 1826.

	NUMBER OF PERSONS SENTENCED.			
	1816 to 1818.	1819 to 1821.	1822 to 1824.	1825 to 1826.
OFFENCES AGAINST PROPERTY:				
Arson	35	65	66	47
Burglary	2,853	1,177	1,195	1,036
Cattle Stealing	203	19	85	31
Child Stealing	48	99	107	57
Counterfeiting and uttering counterfeit coin	14	33	47	21
Embezzlement	150	57	108	49
Forgery and uttering	27	55	71	60
Larceny	1,516	457	491	223
Robbery on the person on the highway and other places	50	117	213	637
Receiving stolen goods	374	223	380	173
Total	5,270	2,302	2,763	2,334
OFFENCES AGAINST THE PERSON:				
Adultery	95	40	51	20
Affray	1,861	1,692	1,917	1,136
Assault	157	164	212	174
Manslaughter	258	212	421	250
Rape	3	10	3	2
Shooting, wounding or poisoning with intent to kill	199	209	251	199
Sodomy	5	7	5	6
Total	2,578	2,334	2,860	1,778
VARIOUS OTHER OFFENCES:				
Felony and misdemeanor not otherwise described	376	146	189	107
Perjury	78	100	147	66
Total	454	246	336	173

(E.)

COMPARATIVE STATEMENT of SENTENCES for OFFENCES against PROPERTY and those against the PERSON, and other Crimes, passed by the Magistrates in the *Lower* and *Western* Provinces of *Bengal*, in 1826 and 1827.

	Number of Persons sentenced.	
	Lower Provinces.	Western Provinces.
OFFENCES AGAINST PROPERTY:		
Arson	154	31
Burglary	2,433	1,995
Cattle Stealing	2,048	3,671
Frauds and other offences	6,161	3,302
Larceny	8,310	7,927
Plundering	768	97
Receiving stolen goods and harbouring thieves	431	909
Snatching from the person	1,077	1,391
Total	21,382	19,323
OFFENCES AGAINST THE PERSON:		
Affray	434	743
Assault and battery	6,535	3,965
Manslaughter	44	11
Riot	2,259	700
Total	9,272	5,419
VARIOUS OTHER OFFENCES:		
Bribery	289	70
Escape from custody	149	72
False complaint	1,728	652
Neglect of duty	10,332	6,652
Perjury	178	41
Resistance of process	1,010	533
Vagrancy	183	55
Total	13,869	8,077

— No. 1. —

BENGAL.

LIST OF PERSONS sentenced by the Criminal Courts in *Bengal* to DEATH, TRANSPORTATION, or IMPRISONMENT, from 1816 to 1827.

	1816.	1817.	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.
By the Nizamut Adawut:												
To death - -	115	114	54	94	55	58	50	77	51	66	67	55
Transportation or Imprisonment for life -	282	268	261	345	324	278	165	118	145	128	171	153
Imprisonment above seven years - -	60	69	67	77	61	124	184	203	297	334	137	65
Ditto above one year, not above 7 years -	88	82	82	156	306	337	220	232	269	401	296	227
Ditto not above one year - -	39	33	20	27	26	7	18	24	56	50	28	25
By the Courts of Circuit:												
Imprisonment above seven years - -	290	507	308	94	40	21	33	13	161	208	214	—
Ditto above one year, not above 7 years -	1,363	1,755	1,961	1,001	1,285	1,354	1,206	1,414	2,118	1,524	1,665	—
Ditto not above one year - - -	621	560	828	374	418	295	323	255	379	330	324	—
By the Magistrates:												
Imprisonment above one year - -	- -	- -	- -	- -	- -	- -	- -	- -	3,747	3,675	4,075	4,141
Ditto not above one year - - -	- -	- -	- -	- -	- -	- -	- -	- -	24,266	24,976	18,229	16,575

Note.—The statements of the sentences of the Nizamut Adawlut refer to the years from 1816 to 1827; those of the Court of Circuit, from 1816 to 1826; and those of the Magistrates, to four years only, viz. from 1824 to 1827. Sentences of death and transportation, or imprisonment for life, are passed by the Nizamut Adawlut, exclusively; sentences of imprisonment for above seven years are passed by the Nizamut Adawlut, or by the Courts of Circuit (who have power to pass sentence to the extent of 14 years' imprisonment in certain cases); sentences to imprisonment above one year, and not above seven years, are passed by the Nizamut Adawlut, or the Courts of Circuit, or by the Magistrates (who are empowered to pass sentence of imprisonment as far as two years in certain cases); sentences to imprisonment not above one year are passed by the Nizamut Adawlut, the Courts of Circuit, or the Magistrates. In these Tables, the sentences by the Courts of Circuit to imprisonment for one year are included under the fourth head, not the fifth. In the documents from which the numbers are taken, such sentences are mixed up with those of imprisonment for two years, and cannot be separated. The statements of the sentences of the Nizamut Adawlut are in great detail, without any abstract, and they are incorrect and imperfect in many places; but the errors on this account, or from the irregularity above noticed, are not of a nature materially to affect the general results which the Tables are intended to show.

— No. 2. —

LIST OF PERSONS sentenced to TEMPORARY IMPRISONMENT, arranged according to the Sentences; extracted from Table 1.

	1816.	1817.	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.
Imprisonment above 7 years:												
By Nizamut Adawlut	60	69	67	77	61	124	184	203	297	334	137	65
By Courts of Circuit	290	507	308	94	40	21	33	13	161	208	214	wanting
Imprisonment above one year, not above 7 years:												
By Nizamut Adawlut	88	82	82	156	306	337	220	232	269	401	296	227
By Courts of Circuit	1,363	1,755	1,961	1,001	1,285	1,354	1,206	1,414	2,118	1,524	1,665	wanting
By Magistrates -	- -	wanting	- -	- -	- -	wanting	- -	- -	3,747	3,675	4,075	4,141
Imprisonment not above one year:												
By Nizamut Adawlut	39	33	20	27	26	7	18	24	56	50	28	25
By Courts of Circuit	621	560	828	374	418	295	323	255	379	330	324	wanting
By Magistrates -	- -	wanting	- -	- -	- -	wanting	- -	- -	24,266	22,976	18,229	16,573

— No. 3. —

ENGLAND AND WALES.

EXTRACT from the STATEMENTS ordered by the House of Commons to be printed, 23d February 1829; showing the Number of Persons in *England* and *Wales* sentenced to DEATH, TRANSPORTATION or IMPRISONMENT, in 7 Years, from 1822 to 1828.

SENTENCES.	1822.	1823.	1824.	1825.	1826.	1827.	1828.	TOTAL.
Death * - - - - - -	1,016	968	1,066	1,036	1,203	1,526	1,165	7,980
Transportation for life - -	132	116	117	126	133	198	317	1,139
Ditto - 28 years - -	-	-	-	-	-	1	1	2
Ditto - 21 ditto - -	-	-	-	-	-	1	-	1
Ditto - 14 ditto - -	84	78	107	129	185	293	508	1,384
Ditto - 10 ditto - -	-	-	-	-	-	-	1	1
Ditto - 7 ditto - -	1,316	1,327	1,491	1,419	1,945	2,032	2,046	11,776
Ditto - 4 ditto - -	–	–	–	–	–	–	–	–
Imprisonment - 5 years - -	2	-	-	-	-	1	-	3
Ditto - - 4 years - -	-	-	-	-	-	-	1	1
Ditto - - 3 years - -	11	11	11	7	11	11	11	73
Ditto, 2 years and above 1 year	376	324	339	365	297	296	243	2,240
Ditto, 1 year and not above 6 months - -	1,129	1,074	1,218	1,193	1,204	1,433	1,117	8,368
Ditto - 6 months and under	3,899	4,040	4,861	5,408	5,819	6,251	5,991	36,269
Of whom were executed - -	97	54	49	50	57	70	79	456

— No. 4. —

ENGLAND AND WALES.

SUMMARY of the NUMBERS in Table 3, arranged under Heads, to correspond nearly with those of Tables of 1 and 2.

SENTENCES.	1822.	1823.	1824.	1825.	1826.	1827.	1828.	TOTAL.
Death * - - - - - -	1,016	968	1,066	1,036	1,203	1,526	1,165	7,980
Transportation for life - -	132	116	117	126	133	198	17	1,139
Transportation for above 7 years -	84	78	107	129	185	293	509	1,385
Transportation or Imprisonment above 1 year, not above 7 years	1,705	1,662	1,842	1,791	2,253	2,540	2,301	14,094
Imprisonment not above 1 year -	5,028	5,114	6,078	6,601	7,023	7,684	7,108	44,637
* Of whom were executed - -	97	54	49	50	57	70	79	456

W. B. Bayley, Esq.
16 April 1832.

— No. 5. —

BENGAL.

SUMMARY of the NUMBERS of Table 1, for Four Years; viz. of those referring to the Nizamut Adawlut and the Magistrates, from 1824 to 1827; and of those referring to the Courts of Circuit, from 1823 to 1826.

SENTENCES.	1823.	1824.	1825.	1826.	1827.	TOTAL of 4 Years.
Death	-	51	66	67	55	239
Transportation or Imprisonment for life	-	145	128	171	153	597
Imprisonment above 7 years:						
By Nizamut Adawlut	-	297	334	137	65	1,429
Courts of Circuit	13	161	208	214	-	
Imprisonment above 1 year, not above 7 years:						
By Nizamut Adawlut	-	269	401	296	227	23,552
Courts of Circuit	1,414	2,118	1,524	1,665	-	
Magistrates	-	3,747	3,675	4,075	4,141	
Imprisonment not above 1 year:						
By Nizamut Adawlut	-	56	50	28	25	83,491
Courts of Circuit	255	379	330	324	-	
Magistrates	-	24,266	22,976	18,229	16,573	

— No. 6. —

ENGLAND AND WALES, AND BENGAL.

TOTAL of the NUMBERS in Table 3, for Four Years (from 1825 to 1828); and of those in Table 5, for Four Years (from 1823 to 1826, and 1824 to 1827), compared.

SENTENCES.	England and Wales.	Bengal Provinces.
Death	4,930 *	(a) 239
Transportation for life, or Imprisonment for life	774	597
Transportation or Imprisonment for above 7 years	1,116	1,429
Ditto - above 1 year, not above 7 years	8,885	23,552
Imprisonment, not above 1 year	28,416	83,491
* Of whom were executed	256	(a) 239

(a) It is supposed that in Bengal all who were sentenced to death were executed; probably almost all were executed.

— No. 7. —

ENGLAND AND WALES, AND BENGAL.

YEARLY AVERAGES of the NUMBERS in Table 6, and the same in proportion to the Population of the two Countries, supposing (*a*) *England* and *Wales* to contain 13 Millions of Inhabitants, and the *Bengal* Provinces 60 Millions.

SENTENCES.	Yearly Averages.		Proportion of the Yearly Averages to the Population.	
	England and Wales. (*b*)	Bengal Provinces.	England and Wales. (*b*)	Bengal Provinces.
Death *	1,232 3/4	59 5/4	1 in 10,547	1 in 1,004,182
Transportation or Imprisonment for life	193 2/7	149 1/4	1 in 67,173	1 in 402,010
Transportation or Imprisonment above 7 years	279 3/4	357 1/4	1 in 43,610	1 in 167,669
Ditto - above 1 year, not above 7 years	2,221 1/4	5,589 3/4	1 in 5,852	1 in 107,35
Imprisonment not above 1 year	7,104	20,872 5/4	1 in 1,829	1 in 2,880
* Of whom were executed	64	59 3/4	1 in 203,281	1 in 1,004,184

(*a*) The population of England and Wales is set down at 13,000,000, on the ground of the last Census. There has never been any Census of the Bengal Provinces.
For an estimated account of their population, *see* Note, Table 9.

(*b*) The numbers for Ireland corresponding with those of Table 6 and 7, were as follows: the population, according to the Census of 1821, being taken at 7,000,000.

	Total in 7 Years, ending with 1828.	Yearly Average.	Yearly Average in proportion to Population.
Sentenced to Death *	1,896	270 6/7	1 in 25,840
Transportation for life	388	55 3/7	1 in 126,289
Ditto - above 7 years	567	81	1 in 86,419
Ditto - and Imprisonment above 1 year, not above 7 years	5,761	823	1 in 8,505
Imprisonment not above 1 year	50,945	7,279 2/7	1 in 961
* Of whom were executed	332	47 3/7	1 in 147,593

In the seven years there were accused of murder 2,604 persons, of whom 224 were sentenced to death, and 155 executed (*aa*).

In France in 1829 there was 89 persons sentenced to death, and 273 to hard labour for life. These numbers are as 1 in 337,078, and 1 in 109,813 respectively in a population of 30,000,000. One thousand and thirty-three were sentenced to temporary hard labour, and 1,222 to imprisonment (reclusion), or 1 in 29,041, and 1 in 24,549 of the population (*bb*). In other countries the number of crimes and criminals appear to be much greater in proportion to the population.

In seven provinces under the Austrian government, the population of which is stated to amount to 14,436,000, it appears from a statistical table, that in two years (viz. 1819 and 1823) the number of homicides brought to trial amounted to 1,032, the yearly average of which (516) is 1 in 27,976 of the population. In one of the provinces, Dalmatia, the population of which is stated to be 318,000, the number of trials for homicide in 1823 is set down at 179; for robbery, 489; for burning, 200; for wounding and maiming, 304 (*c*).

In Spain the state of crime is described in the following account, which has been published in this country as an extract from the Madrid Gazette.

(*aa*) Parliamentary Return, ordered by the House of Commons to be printed, 10th May 1829.
(*bb*) Extract from the Report of the Minister of Justice for 1829, Courier Français, 3d Feb. 1813.
(*c*) Extracts from Statistical Tables, Times, 14th January 1830.

W. B. Bayley, Esq.
16 April 1832.

STATEMENT of OFFENCES which have formed the subject of Judicial Proceedings in Spain during the Year 1826.

Homicides	1,233
Infanticides	13
Cases of Poisoning	5
Anthropophagus	1
Suicides	16
Duels	4
Dangerous Wounds, by cutting, maiming, &c.	1,773
Rapes	52
Cases of Public Incontinence	144
Slanders	369
Blasphemies	27
Incendiaries	56
Thefts	1,620
Cases of Coining	10
Forgeries	43
Breaches of Trust	66a
Prevarications	10
Excesses of various kinds	2,782 (a)

Of the persons charged with these offences, 167, or 1 in 83,772 of the supposed population were sentenced to death, and 12,578 to other punishments. The population of Spain is said to be about 14,000,000.

(a) Jurist, No. 4.

— No. 8. —

BENGAL:—LOWER AND WESTERN PROVINCES.

SENTENCES to DEATH, or to TRANSPORTATION or IMPRISONMENT for LIFE in the *Lower* and *Western* Provinces of *Bengal*, compared.

	1816.	1817.	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.
Death:												
Lower Provinces	64	57	24	42	25	22	20	42	31	26	26	22
Western Provinces	51	57	30	52	30	36	30	35	20	40	41	32
Transportation or Imprisonment for Life:												
Lower Provinces	213	214	158	240	224	189	103	56	89	51	70	96
Western Provinces	69	54	103	105	100	89	62	62	56	77	101	57

— No. 9. —

ENGLAND AND WALES:—BENGAL, LOWER AND WESTERN PROVINCES.

SENTENCES to DEATH, and TRANSPORTATION or IMPRISONMENT for LIFE in Six Years, ending 1827; and EXECUTIONS in the same Period in *England* and *Wales*, and in the *Lower* Provinces and *Western* Provinces of *Bengal*, compared: Also, the YEARLY AVERAGES, and the same in proportion to the Population, supposing the *Lower* Provinces of *Bengal* to contain Forty Millions, and the *Western* Twenty Millions of Inhabitants.

	Total Sentences and Executions from 1822 to 1827.			Yearly Averages.			Ditto in proportion to the Population.		
	England and Wales.	Lower Provinces.	Western Provinces.	England and Wales.	Lower Provinces.	Western Provinces.	England and Wales.	Lower Provinces.	Western Provinces.
Death - - - -	6,815	168	198	1,135 5/6	28	33	1 in 11,445	1 in 1,428,571	1 in 606,060
Transportation or Imprisonment for life -	822	465	415	120 2/6	77 3/6	69 1/6	1 in 108,033	1 in 516,129	1 in 289,159
Executions - - -	377	168	198	62 5/6	28	33	1 in 206,897	1 in 1,428,571	1 in 606,060

Martis, 17° *die Aprilis*, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

Thomas Fortescue, Esq., called in; and further Examined.

IV. JUDICIAL.

Thomas Fortescue, Esq. 17 April 1832.

935. HOW long is it since you returned from India?—I returned in 1821.

936. Did you while you were in India reside much in or near Calcutta?—I resided in Cuttack as Secretary to the Commission appointed for arranging the civil affairs of it after the conquest. I have been also officiating Collector of the district of Midnapore in Orissa, officiating Collector of the district of Dacca, and officiating Collector of the district of Moorshedebad in Bengal.

937. Have you frequently visited Calcutta itself?—Yes, very frequently; and I was there as Secretary to Government in the Territorial department for a short time.

938. While you were in India did you observe a great approximation in the natives at the presidency to the habits or modes of thinking of Europeans?—A good deal, certainly. The number of Europeans, and the establishment of His Majesty's Court, led them much to a knowledge of the character and bearing of the laws of the Europeans.

939. Before you left India were there any institutions for the education of the natives established by government?—They were commencing.

940. According to your information, has not a considerable effect been produced by those institutions since that time?—As far as I can learn there has.

941. Are you aware also that since that time there has been an increased employment of natives in the administration of justice, or otherwise in the administration of public affairs?—I have been informed so.

942. What would be your general idea of the expediency and practicability of gradually increasing the degree in which they are employed in such ways?—I think, both in justice to them in their own country, and in point of talent, they ought to be more employed, particularly being so well qualified for almost all the duties of the different situations connected with the administration of the country; I have had a good deal to do with them myself in that way.

943. How far have you had opportunities yourself of seeing them employed in the

Thomas Fortescue, Esq. 17 April 1832.

the administration of public affairs?—In the different situations I have held in India, I have particularly attended to their mode of conducting the business entrusted to them, and have most frequently found them extremely capable, particularly when confidence and salary have been fair and liberal; their conduct too has been very satisfactory to the natives. In general, when they have misconducted themselves, it has been greatly owing to the want of consistent conduct towards them.

944. Do you mean to say that if they received a liberal remuneration, they would not be tempted to those deviations from duty to which in many cases they are liable; such as the pursuit of irregular gains, or the indulgence of partialities or corruption?—I think they would not; I have had means of observing them in situations where their authorized emoluments have been below what it is possible to conceive could induce a man to labour, and in which the temptations to unlawful gain might scarcely be, in consequence, one would say, to be resisted. I could mention several instances, in the course of my experience, where the average of the net fees of native commissioners was but 10 rupees a month, yet they were employed every day in the week from morning till night. I noticed also that that small pittance was not paid to them till months after it became due; and with respect to the vakeels officiating under them, their net income too has not exceeded four rupees a month: and moreover, it should be remembered, that there are instances, under the Regulations in which the native commissioners and their officers are subject to much official labour and expense, and yet receive no remuneration at all, or but a most disproportionate one; for example, in pauper suits they get nothing: in other cases, when a compromise or razeenama is tendered *before* the pleadings are completed, they get nothing; if it is tendered at any time *after* perusal of the record, they are entitled but to half their ordinary commission: again, in cases nonsuited they get nothing; further, a vast detail and trouble is imposed upon them in respect of distraints and bringing property to sale, yet if nothing is sold they get nothing. It is obvious that all this is unfair, when the commissions are paid, not by fixed salaries, but by their fees, and that all their establishments, pens, ink and paper, &c. are defrayed at their own cost; and equally obvious that their duty and interest clash. These duties relate to the agricultural community; yet the Regulations for the benefit of this class, which authorize the employment of the native commissions in the interior, were at times not acted upon, and in some instances certain Regulations were not to be found in the district office.

945. By whose neglect had that taken place; who had the charge of those?—I cannot particularly say; the ordinary course is for the government to send up the Regulations, when a certain form of promulgation takes place, after which the enactments are deposited amongst the records.

946. As far as you have observed, under a proper system the employment of them might be very considerably extended, only proceeding gradually and with prudence?—I consider their capacity for investigation in India to be, I would say, superior to our own; I have often associated them with me, both in the investigation of civil and criminal matters, and have derived the greatest assistance from their quick penetration and knowledge of the character of those whom I had to deal with.

947. Do you speak of Hindoos or Mahomedans?—Of both Hindoos and Mahomedans, and those principally attached to my office; I make no distinction between them.

948. Should you however say that there was a want of regard for character among them, in comparison with Europeans?—Their loss of character is certainly much more common, and they have not those high principles which European officers have; but it is greatly to be accounted for in the subaltern offices they hold, to the paltry allowance they receive, to the strong temptations thrown in their way, and the consequent distrust manifested in general towards them.

949. You think that a regard to character might be created by proper measures?—I have no doubt of it; for I have known them in the interior of the country acting greatly upon their own responsibility, and to the entire satisfaction of the neighbourhood. I have myself often deputed them for special purposes, as a kind of local commission, and they have performed the duty to content me and gratify the people; they have brought litigated points to a quick and final close, which but for their aid would have harassed the zillah (or European's) court for an indefinite period.

950. Do you ascribe the advantage that they have over Europeans in the investigation

tigation of difficult points, to their much better acquaintance with the habits and manners and feelings of their own countrymen?—Certainly; for when I have been sitting with them rather as an arbitrator than judge, and they have discussed matters in the form of punchayet, I have observed the mode of questioning and the attention they paid to gesture and manner to be more particular than would probably have occurred to an European, yet more suited to the character of those examined by them, and better to elicit the truth; the subject of dispute has in consequence been settled satisfactorily, and with a quickness of repartee that I was quite unable to follow. Besides, in taking evidence they often interrogate so as to get at truth through aid of prejudices; for they will consider caste, rank in life, being single or married, &c., and so frame their questions as to call down the worst of consequences upon children and relations if falsehood be spoken. Such points have astonishing influence with the natives, though often but little attended to by us.

951. Should you think that they are as yet ripe to act in judicial situations, except under the superintendence and perhaps the strict supervision of Europeans, and subject also to an appeal to some European tribunal?—I think so great a transition at once from what their situation was when I resided in India, would not be advisable, but gradually they would become so. They are exceedingly quick in acquiring knowledge, and very desirous of it when it meets the approbation of those whose good opinions they solicit.

952. Have you considered how far they could be invested with the functions of police, at least in the presidencies; as for example, of justices of the peace?—I think they are perfectly competent to such duties, and might be entrusted with them; it is an opinion which I submitted during my residence in India to the government, suggesting that they might be entrusted with petty criminal jurisdiction, and empowered to inflict punishment by fine, or by imprisonment, or by stripes, according to the circumstances of the case.

953. Would it be proper to employ them in the presidencies in those duties which are understood to belong to magistrates in this country, namely, that of committing persons for trial before the courts?—I think perfectly so; for as officers employed under the magistrate in preparing commitments, they have, I may say, often performed the whole of the detail; their judgment is sufficiently good: but I should say that they ought not for the present to have cognizance of cases in which Europeans are concerned. Amongst themselves they might act, but not where an European was either the complainant or the person aggrieved; for they have so great a deference for their character generally, and often in such awe of them, that they might be induced by lenity or apprehension to swerve from an equitable decision.

954. Does that awe and deference proceed mainly from their having to do with officers either civil or military employed by the government?—I think their feeling towards an European is such, and their manner too so disposed to court them, that I should be apprehensive they might favour the Europeans to the prejudice of their own countrymen.

955. The Committee has been informed that zemindars and other natives of power have such influence as to render it unlikely that persons in such a situation would act impartially in cases arising between natives; does your opinion coincide with that which has been given to the Committee?—Neither my experience nor my opinion coincide with that notion. I am satisfied that if they were liberally paid and a fair confidence shown towards them, they would maintain their situation with great credit to themselves and impartiality to the community. I am of opinion that the distance constantly subsisting between the European officers of government and the native judicial officers is such as not to give satisfaction or confidence to the natives; further, that when they do well it is not generally known perhaps, nor noticed to them in terms of encouraging approbation, and that when they do ill they are censured without sufficiently liberal construction of their motives and the merits of the complaint against them; and that there is not such easy intercourse to discuss points of general duty as to enable them to receive instruction from the European officer. The native I have always found anxious to pick up whatever was useful for his proper and official conduct. All this is often owing to the want of time on the part of the European; and this want of time proceeds from an injudicious division of the aggregate duties of the whole country amongst the officers of the government, and not calling in the aid sufficiently of the Indian community. A great deal of trifling matter is obliged to be brought

before the European, which could with superior advantage be originally disposed of by the native.

956. Are the native judicial officers allowed to sit in the private apartments of the European functionary?—Yes, most frequently; I ever found them, when a new regulation appeared, glad to come to me and talk it over.

957. Is that a usual practice?—I do not believe it to be very general.

958. On the supposition that by any change in the system of intercourse with India, the number of Europeans settled or resident in the interior of the country were considerably augmented, do you think that any and what changes would be requisite or expedient in the system of the judicial administration, as conducted by the Company's courts?—With reference to their being enabled to purchase lands and become proprietors, I think a great *desideratum*, amongst many others, is the unsettled state of property in India with respect to the ryots' rights, which it should be a primary object to adjust. A very great change would be requisite in the judicial system were Europeans to be numerous: it would have to be determined whether the present existing Mahomedan law, as modified by our regulations, should remain, or whether the English law be more generally administered; and in either case it would be necessary, I presume, to have the establishments augmented by European functionaries subordinate to the judge and magistrate. The ordinary gaols are not suited for European constitutions, and must be considerably and suitably enlarged. The subject however is so wide and embraces so much, that it is not possible in a short reply to allude to its great details.

959. When you speak of the necessity of the gaols being very much enlarged, do you not contemplate a very considerable resort of the lower class of Europeans to them?—No, not so much as to that, as to their being comfortable, because our gaols are at present such as would render it death probably for an European to be confined in them: the processes to be served must be by Europeans, for violent offenders would not be manageable by the native officers.

960. If they were subject to one general law, and that law administered partly by the medium of the natives, why should not the native power be able to master a single individual?—Occasions for such interference, when they have occurred in India, have generally been very disgraceful to the European character; and the natives are so disposed to cover the misconduct of Europeans on the one hand, and so afraid of them on the other, that I apprehend there would be a very great difficulty, though it might be overcome.

961. What are the species of outrages committed by Europeans to which you especially refer?—Great contempts of court, if there were but one European judge; there is no community, no publicity, no public out of court to appreciate what is done in it: an European in his own language might be extremely offensive, and make it very difficult for the judicial officer to conduct a case before him with decorum.

962. Are you aware of many cases of the description to which you have alluded which have occurred?—No, I am not; but I can well imagine such to occur, from what I have understood to have happened, upon such characters as I contemplate coming into court.

963. Were the Europeans, with respect to whom you have alluded, heretofore chiefly officers either civil or military in the employ of government?—No; I allude chiefly to persons out of the service.

964. Are there many, except the indigo planters residing in the interior of the country, out of the service of the Company?—No; there are sometimes low subordinate Europeans, but not many; they have got to India by working their passage out or abandoning their ships; persons of that kind have often acted very offensively against the natives. The persons I allude to would be perhaps few, but they would be very mischievous.

965. In what capacity were those whom you have known employed?—They were generally assistants under some head person either managing the indigo manufacture or some other manufacture.

966. What other species of manufacture?—Besides indigo, collecting in cotton or sugar. I am alluding rather to what might be from an increase of Europeans than what has been, because the law has hitherto been such as to render Europeans very cautious how they subject themselves to removal. There is, I believe, a strong opinion in the Indian service in favour of the introduction of Europeans, but it is to be considered whether the improvements in India shall be based upon its institutions, or sought for through our own. I think the natives of India are

entitled to have their interests favoured in preference to those of this country. I look to the further introduction of Europeans, and the other arrangements that are going on, as tending ultimately to the abolition of the present laws of India, their language and religion too. There is no doubt that the intelligence of the Europeans and their skilful application of capital will very much improve the country at large, and in respect of cultivation and population, but I have great doubts whether the result of all such improvements will not be vastly on the side of our own country.

967. When you say that you believe there is a general idea that it would be advantageous to have an increased number of Europeans in the country, do you suppose that the opinion is in favour of Europeans who should enter for the purposes of settlement, or of carrying on some commercial or agricultural pursuit in the country, or do you suppose that the opinion is in favour of an unrestricted entrance of Europeans of all classes?—The opinion that I alluded to has reference to Europeans going to and residing in India for the purpose of commerce.

968. Supposing the resort of Europeans in future to be very limited in point of number, and to consist mainly of individuals either possessed of capital or of very superior skill, should you then imagine that it would be necessary to make the great alterations in the present system of India to which you have previously already adverted?—The alteration would depend necessarily very much on the number of Europeans; but what I mean to say is, that in cases coming before the courts it must be determined by what law they shall be adjudged, and also in case of punishment, what is to become of the individual.

969. Do you not conceive that, taking the present regulations, and the laws at present enforced, both criminal and civil, throughout the provinces of India, a code might be framed applicable to Europeans as well as natives residing within them?—I think, without any great difficulty: as to the Mahomedan criminal law, it is a mere name at present; and as far as the civil laws go, they would of course be allowed to operate between the Hindoos and Mahomedans.

970. Supposing, then, such a code to be framed, would not that remove much of your objection to the settlement of Europeans in India, in so far as the judicial system goes?—Certainly. I would still advert to the administration of those laws when so modified.

971. Do you conceive that the laws being so modified, and the native judges being sufficiently remunerated for their trouble, and being treated with the respect due to their station, there would be any difficulty in their administration arising from the settlement of Europeans among them?—I think at first there might be, but as they gradually became familiarized with their duty, and felt themselves upheld in the responsibility they undertook, they would execute the laws well. They would themselves however have at present, I think, objections to administer the laws between natives and Europeans.

972. Do you not contemplate that the settlement of Europeans in India, with their knowledge of the language and of the habits and of the manners of the people, acquired by their intercourse with them, would enable you to select from amongst those settlers individuals capable of acting as magistrates, and in some instances of filling with benefit judicial situations which might become vacant?—That must depend a good deal upon their capacity and intelligence in those various points. I have certainly seen individuals, out of the service, whose character and knowledge perfectly qualified them for such duty; but it must entirely depend upon that.

973. Would they not have the means of acquiring a knowledge of the feelings and manners and habits of the people, as well as of their language, very far superior to those which are now possessed by the European functionaries in India?—By no means. I should say their intercourse is comparatively very much limited; because, in the first place, they do not move like our officers all over the country: there is the greatest contrast in its different parts; yet such does not prove any fallacy, though indispensable, I would add, for forming anything like a just opinion on the customs, habits, &c. of India.

974. Supposing an individual to manage, for instance, a commercial concern, would it not be necessary for him to mix with much greater intimacy with the natives, than it would for a public functionary of government residing in the country?—Not more than a collector, for instance, does in general; he would be in immediate intercourse certainly with the people much more than the judicial officer usually is, but not more than the revenue officers or custom officers; besides,

his duty would be to attend to his own business, more than to seek to attain to knowledge qualifying him for a foreign station.

975. Would not he be prompted very much more by his own private interest to acquire a knowledge of the manners and habits of the people, than the public functionary would?—Merely to enable him to conduct his commercial affairs with success, his knowledge would be very limited. I have known individuals who conducted business, and yet could scarcely speak the language. There are however others, on the other hand, out of the service, whose knowledge of languages and manners has been very superior.

976. Do you not conceive that the children of the country, born and educated in the country, would have a far greater knowledge of the manners and habits and language of the people than persons sent out of this country?—I do not think they would, judging from what I have observed: they are generally disliked and despised both by natives and Europeans, though their knowledge of the language is often very good; they are not in easy intercourse with either the native or European.

977. Are they not also looked down upon by the government?—Yes, but I know not how it could be otherwise.

978. And is not their condition one of considerable hardship?—It is; it seems to be a great difficulty, and I believe the government acknowledge it to be such, to determine what course to pursue with respect to them. The natives would, I have no doubt, be much dissatisfied to see those persons preferred, and placed over them.

979. So far as you have observed of the intercourse between European residents not in the service and natives, should you say that their treatment of the natives was decidedly different from the treatment of the natives by the Company's servants in public situations?—Yes, I should think so, from the circumstance of one having authority, that is the Company's officer, and the other having always to deal in a fictitious name with them; he could never appear openly as having any right to deal with them in matters of commerce; he was not allowed to hold land.

980. So far as that cause operates, if the law gave them a legal right in the country, would the inducement be removed which now operates upon them to treat the natives with more respect?—That would greatly depend upon their own characters; one must always recollect that their object would be their commercial pursuits, their gain, in short, and that it must mainly depend upon their internal feelings whether they would or would not abuse authority given to them. With respect to the Europeans in some parts of the country where I have been, I must say that I should have every confidence in their conducting themselves well, had they possessed the power which it is now proposed to give them, that is, authority to hold lands and to act openly.

981. Do you not conceive that the Europeans now residing in the provinces, and whose business requires that they should hold or occupy lands, are placed in a very false position as arising from their being prevented from holding and occupying land in their own names?—It is so; at the same time it has had the good effect of making them cautious how they encouraged or permitted disturbance in matters connected with their own mercantile pursuits, while the state of the laws and local courts rendered this extremely necessary.

982. Have Europeans the same means of preventing disturbances on the part of their native servants, when in truth they hold their lands in the names of those native servants?—No; because if they appeal to the courts it would be difficult for them to establish that power over their agents which their private arrangements have given them. Their agents are the ostensible holders of the land which they (the Europeans) have the benefit of; and if disputes arise between them and their agents, who are in truth but agents, still they cannot bring that forward, it could not be supported.

983. Are the outrages that may have been committed either by or in the name of Europeans, in some degree attributable to the tardy and imperfect administration of justice by the civil courts in the provinces?—The courts certainly are so crowded and the business so much in arrear generally, that it has often happened, when there appeared no prospect of the decision of a civil suit being obtained within convenient time, that the European and his agents have taken the law into their own hands; but such occurrences could be readily provided against, by having natives, such as commissioners or ameens, dispersed through the country, when all such matters would be speedily settled.

984. Do you conceive that there is a good deal of venality among the native officers

officers of the courts?—I do not think that there is generally, though at the same time I have no doubt that it does exist, its degree depending greatly upon the European officer's vigilance; but I account for it, and might even say apologize for it, in their very inconsiderable pay and hard work. *Thomas Fortescue, Esq.* 17 April 1832.

985. You have said, that you thought that a general code might be formed for the population of India of all descriptions; do you think that in place of having supreme courts at the presidencies, with one species of jurisdiction, and totally independent courts in the country, with another species of jurisdiction, it would be possible to frame a common system of judicature, to be acted upon in all the courts, both at the presidencies and throughout the whole country?—I should think it a matter of no great difficulty; it would imply a revision of the whole of the law, which I conceive would be easy. As for the criminal part, it would be extremely simple, and with respect to the civil, it would be done without embarrassment.

986. Do not you think that an adoption of any change of that kind would be facilitated by having a standing legislative body at the presidency, who might frame laws adapted to the occasions that might arise?—I think that a council formed of the government, and such individuals as compose the supreme court of judicature in Bengal, would be competent to form a code of laws well suited to the administration of justice in all its branches; but I should think that the Governor-general should always have a casting voice in every matter, to prevent the serious consequences which collision among themselves, or delay by reference to this country, might occasion.

987. You have stated that the courts are clogged with business; will you mention what is the description of causes that appears most to impede the discharge of business in those courts?—With reference to the period when I left India, the business of the courts was clogged chiefly by two causes, namely, various petty details that could as well be performed by natives, and summary suits for small amounts, which were first cognizable of necessity in the zillah court, then referred to the collector for report, and again brought before the judge for final decision when that report was received. The decision was after all but a summary one, and a regular suit was at the option of the party dissatisfied afterwards. The number of those suits was often so great and pressing as to induce the judge to devote his time to them; in consequence of which suits of greater interest and amount to other classes of the community were wholly neglected, and breaches of the peace often occurred in consequence; whereas had such suits been in the first instance rendered cognizable by the native commissioners in the interior as regular suits, they would have been decided earlier and more satisfactorily, and without waste of time to the judge. I remember, in a district of which I had assumed charge, and which may be taken as not an unfair sample of others very generally, there were on the file about 350 summary suits, some of four years' standing; these I suggested to the parties to withdraw and institute as regular suits before the native commis-missioners, where they were decided in a very short period: I found, moreover, that those which remained on my file were the worst, and as such best suited to a hasty superficial inquiry, which is the character of summary suits.

988. Was there at that time a considerable delay in bringing the cases of a more important nature to trial?—There was very great delay, and chiefly owing to the causes I have hinted; other causes also there were, as miscellaneous proceedings, which might have been equally well performed by natives, but the system of the courts and the regulations precluded the judge from relieving himself of most of this tiresome and lengthened detail.

Alexander Duncan Campbell, Esq. called in; and Examined.

989. WILL you state in what presidency you have served in India?—Under the Madras presidency. *Alex. D. Campbell, Esq.*

990. State what judicial situations you have filled?—In 1818 I officiated for several months as Chief Magistrate at Madras, when I had charge of the police. I was also twice appointed a Judge of Circuit and Appeal in the provincial court for the centre division, once on the 9th March 1824, and subsequently on the 17th of June 1828; and when I left Madras, in February 1831, I held the situation of Registrar to the courts of Sudder Dewanny and Foujdarry Adawlut, or Company's supreme court at the presidency, at the period when it was proposed to abolish the Mussulman criminal law, and to raise materially the jurisdiction of the various

Alex. D. Campbell, Esq.

17 April 1832.

native judicatures under the Madras government, both in the civil and criminal departments.

991. Are you acquainted with two letters, of which copies are now on the table, from the Madras government, in the judicial department, to the Court of Directors, dated respectively the 27th of April 1827, and the 2d of November 1830?—I am.

992. Will you state the nature of those letters?—The first-mentioned letter refers principally to the proceedings of the Madras government antecedent to the establishment of assistant judges, in the civil and criminal departments, at the Madras presidency. The last-mentioned letter contains the most recent modifications suggested at Madras, in the judicial system, consequent on the report of the finance committee in Bengal, regarding the expediency of reducing the expenses of the judicial department at the Madras presidency: it proposes the total abolition of the Mussulman criminal law, the raising materially the civil jurisdiction of all the native judicatures, the appointment of native judges, with the full powers, both civil and criminal, vested in the zillah and criminal judges of our European courts, and a modified employment of the junior civil servants on their entrance into the judicial department; it also involves the abolition of the whole of the courts of circuit, and the establishment of seven commissioners to conduct not only the circuit duties, but to control both the European and native subordinate judicial tribunals, and also the police department under the magistrates of the provinces; and it is accompanied by a statement of the saving of expense likely to result from the proposed modifications: it also suggests the abolition of the existing mode of remunerating the native judicatures denominated *district moonsiffs*, at Madras, and a new mode of remunerating them for their services.

993. Do you know how far any of the suggestions contained in the latest of those letters have been or are in the course of being carried into effect?—I have in my possession drafts of the regulations, made by myself before leaving Madras, for carrying into effect the whole of the above-mentioned suggestions in the criminal department, marked from (A.) to (E.) Similar regulations were to have been framed in the civil department; but I left Madras suddenly, from extreme illness, and they had not been prepared at the period of my departure. Three native judges, with the full powers of zillah and criminal judges of the European courts, had been sworn in at the presidency before I left it; but since my arrival in this country, I have understood that the Bengal government revived the order existing during Lord Wellesley's time, for the transmission of all Madras regulations to the supreme government in Bengal before promulgation, and that the above-mentioned drafts were transmitted from Madras to Calcutta. I have not heard the result of that reference, but I believe that, in consequence, the proposed modifications have not yet been carried into full operation.

994. Had any of those three native judges who were appointed, entered on their functions before your departure?—One of the native judges, in the district of Soonda, on the western coast of the Peninsula, had been appointed considerably anterior to the other two, and had entered on and executed his functions for a considerable period before I left Madras.

995. Do you yourself concur generally in the expediency of the alterations suggested in the letter above mentioned?—I concur entirely in the expediency of all the suggestions submitted by the court of sudder adawlut, in their proceedings in question, with the exception of that part of them in which the court state that they do not consider the use of juries to be either safe or practicable; the remark is made by them as applicable to criminal trials before the *native* judges. My opinion is strongly in favour of the use of something similar to jurors on all occasions in criminal trials, both before the native and European judges, as an assistance to the European, and as a check on the native judge. It is a subject of great regret with me that the enactment made by the Madras government, in Regulation X, 1827, to introduce juries gradually under the Madras presidency, never has been carried into effect; the regulation has remained a dead letter, in consequence of the subsequent government disapproving of it.

996. Had no trial ever been given to it?—None whatever.

997. Has the punchayet system been tried in civil cases?—Yes, but without much success at Madras, in the *judicial* department.

998. To what do you ascribe the want of success with which that experiment has been accompanied?—Most of the suits in India originate with the monied classes of the people who are generally the plaintiffs, against the ryots who are usually

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usually the defendants, as borrowers of money from them; and my impression is, that the native bankers find it more to their advantage to institute suits before a distant judicature, in order to induce speedy payment of their debts by their numerous debtors, than before a judicature close to the residence of the debtor. I also think that they consider it more likely that they can influence a single native judicature, than a punchayet. I am inclined to attribute to the above causes the rare resort in the judicial departments to the system of punchayet, which in India has more beneficially exercised its influence in disputes before they come to the length of a lawsuit, than after the parties have become so adverse to agreement as to resort to that extreme measure.

999. What do you mean by resorting to a more distant judicature?—I mean that when a punchayet takes place, it can be held on the spot where the dispute arises; but our native judicatures being fixed at particular stations, when a lawsuit occurs, it is necessary that the party sued should go to the residence of the native exercising judicial authority, which is frequently 30 or 40 or 50 miles from the ryot's home; and natives to whom money is owing find it often to their advantage, by harassing a single debtor with a distant journey, to bring many of their other debtors to a speedy settlement of their debts.

1000. Is the punchayet to which the last question refers a punchayet for the purposes of arbitration rather than for the purposes of deciding a suit which has once been instituted?—Not for arbitration, but for decision. My impression of the enactments of the Madras government, contained in Regulations V, VII, and XII, 1816, respecting punchayets, is, that on an agreement to refer the subject of the suit to decision, by both parties, a village punchayet may decide; or, in particular cases, by one party, a district punchayet may decide; but that the decision takes place by the members of the punchayet in the village or district where the dispute arises, their decree being enclosed in a blank envelope to the native judicature, whose duty it merely is first to assemble them, and then to carry it into execution. In particular cases, either party consenting may constrain the other to refer the matter to a punchayet; but whether it is a district or a village punchayet which is to decide, in these instances, I do not clearly recollect.

1001. Are cases which have been actually brought before the judge ever tried in his presence by the means of punchayet, upon the consent of the parties?—Judges have the power, under Regulation XXI, 1802, to refer disputes before them to arbitration; but when parties consent to refer suits to punchayet they need not travel to a distant European court. The native head of the village, or of district judicature exclusively, has the power to assemble punchayets.

1002. Then, in fact, a punchayet never stands in the shape of our jury for trial of causes?—Never. I have had considerable experience of the use of punchayets, as a *revenue* officer, in the Bellary division of the Ceded Districts, and found them exceedingly useful there in adjusting matters of dispute, both between the inhabitants themselves, and between myself, as the representative of the government, and the ryots paying land revenue, as well as the merchants, who in that particular province pay a very heavy income tax. I have often found these parties resist all argument on the part of my native servants, as well as of myself, but immediately concede the point with cheerfulness when decided in favour of the government by a punchayet, deferring to the opinions of their equals, though they opposed that of the government officers. In such cases, as well as in numerous disputes regarding village offices, such as the right to the privileges of the head of the village, or of the watchman or other village officers, punchayets have been most extensively employed by the revenue officers in Bellary; and I have scarcely ever found any difficulty in inducing all such parties to agree to that mode of adjusting these disputes. When native animosity increases to such a degree as to terminate in a suit at law, it becomes more difficult to reconcile the parties to this mode of adjusting the dispute.

1003. Do you conceive that any advantage would accrue by enforcing the trial by punchayet in cases of a certain value or amount, not leaving it optional to the parties?—I think it would tend to degrade that tribunal in the public estimation to make a reference to it compulsory; but in very trifling cases I do not think that it would be attended with other disadvantages. I should prefer, however, something of the nature of a jury, to a punchayet; natives, in such bodies, acting much more satisfactorily under the supervision of a respectable officer, particularly of an European, as in the cases I have mentioned in Bellary, than when left without superintendence. It is not necessary that the European functionary should in the remotest degree influence such decisions. But in a ryotwar settled district, an efficient

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officer of this kind is rather the organ of public opinion than the representative of the government; and a knowledge that their decree, if unjust, will expose them to public odium, which will find a vent through him, operates as a great check on such punchayets.

1004. Of what description of persons are the members of the punchayet commonly composed?—In the ryotwar settled districts, such as Bellary, there are constantly in attendance at the office of the collectors and magistrates, many hundreds, sometimes thousands of the ryots, particularly at the period of the annual settlements, when occasionally 10,000 or 12,000 people of that description may be congregated together at the same time. The parties themselves are left to select out of those bodies whom they choose, and the collector generally nominates one of the leading agricultural inhabitants, known to be a person of good sense and discrimination, care being invariably taken to ascertain from both parties that he is one to whom neither have any objection.

1005. Supposing a case between a lender of money and a borrower of it to be decided by punchayet, of what description of persons in that case would the punchayet be composed?—The punchayet would consist, in all probability, of two wealthy monied men, chosen by the native banker; two respectable cultivators, chosen by the ryot; and a fifth person, of the description above mentioned, selected by the collector. A great deal, in a punchayet, depends upon the proper selection of that fifth person; the other parties enter into violent disputes, each as partizans of the person who has chosen them, and the fifth acts as the moderator to bring both to reason. Some of the decrees drawn up by punchayets at Bellary are admirable specimens of native intelligence, seldom equalled by some of our own European decrees.

1006. Are the members of the punchayet paid for their labour?—Never.

1007. Are they sworn?—They are not sworn; and even intricate disputes in the revenue department, such as I have described, are generally settled within a few hours, or at least in the course of a single day. The dispute must be exceedingly intricate indeed if the decision extends beyond that period.

1008. Is there any limitation to the amount of the suit that is subject to this mode of settlement?—I think not; where the parties agree to settle a dispute by punchayet, there is no limitation of amount.

1009. Is the decision of a punchayet final?—Decidedly so; subject to no appeal, except on proof of the partiality or corruption of the members.

1010. Is the decision of causes by punchayet an ancient custom in the provinces under the Madras presidency, or of recent introduction?—An exceedingly ancient custom in those parts of the presidency with which I am best acquainted, namely, the Ceded Districts; and I apprehend that it will be found to have existed all over the Madras territories, though the resort to it may have been more or less encouraged in different provinces, and it may more or less have fallen into disuse.

1011. Are you aware whether the practice of torture by the native officers, for the purpose of extracting confessions or obtaining evidence, has been frequently resorted to?—Under the native governments which preceded us at Madras, the universal object of every police officer was to obtain a confession from the prisoner, with a view to his conviction of any offence; and notwithstanding every endeavour on the part of our European tribunals to put an end to this system, frequent instances have come before all our criminal tribunals of its use. I recollect a very strong instance of this kind noticed in my own report as judge of circuit; it was in the Cuddapah district, where a native was hung by the heels from the beam of a house. I also recollect a brother judge, on the same bench with myself, mentioning to me very extraordinary means of torture complained of by certain prisoners, in which, with the view of eluding all discovery, the native police officers were accused of inserting heated bougies into the penis of the prisoners; and there is an universal anxiety on the part of the European judicial officers of the Madras government to guard strongly against even well-authenticated confessions, unless most fully corroborated by other evidence, on the ground of the great tendency of our native police officers to resort to this means for conviction. Even where ample proof otherwise exists, it is very difficult to counteract the tendency of our native police officers to induce confession on the part of the prisoners; indeed, we have not yet eradicated from the minds of our native agents that such means of proof have no weight with us.

1012. In criminal trials, is it the practice of the judge to examine, before a confession be given in evidence, whether it has been made under circumstances of fear,

or under circumstances of intimidation or torture?—With our courts it is the universal practice to lay before the judge of circuit who tries the prisoner, the whole of the depositions anterior to the trial, including of course any alleged confessions; those confessions are, by regulation, required to be attested by two witnesses, and those witnesses are universally examined; even when they swear that such confessions were freely and voluntarily given by the prisoner, the tendency of our European tribunals is in general to place little confidence in such evidence, on the ground of the tendency of our native agents of police to extort confessions. *Alex. D. Campbell, Esq.* 17 April 1832.

1013. May the agents of police in whose custody the prisoner is taken be the attesting witnesses, or must the witnesses be persons who are unconnected with the police?—Our code originally prescribed that the witnesses who attest confessions should be persons totally unconnected with the police; the consequence was, that the police officers called upon many of the more respectable classes of the community to attend whilst such confessions were given. But those persons were so harassed by long journies, in attending first before the European tribunal which alone is competent to commit the prisoner, and subsequently before the distinct European tribunal which alone is competent to try the prisoner, that they evinced extreme aversion to this odious duty, and many even perjured themselves and declared that they were not present, though it was fully proved that they were so, merely to avoid performing similar duties thereafter. The consequence has been, that the original order was so far abrogated, that all police officers above the rank of a common peon were admitted as witnesses to such confessions, under Regulation V., 1819.

1014. Is not torture also resorted to for the purpose of getting evidence as well as confessions, and for extorting bribes?—I do not think that it is generally resorted to for such purposes, though occasional instances may have occurred of such gross abuse. On reference, however, to my report as judge of circuit, I observe that, in the instance at Cuddapah above mentioned, I recorded my opinion thus: "Aggravated, atrocious and reiterated torture, accompanied by murder, had taken place, in order to induce false evidence, and eventually perjury, against innocent individuals unjustly accused of robbery."

1015. Is there not some general term by which it is described; kittee, for instance?—Kittee is the hand-torture.

Mercurii, 18° *die Aprilis* 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

Alexander Duncan Campbell, Esq., called in; and further Examined.

1016. WILL you explain the kittee, or hand torture, mentioned in your last examination?—The kittee consists of a piece of bamboo split at one end, the other remaining shut. The hand is introduced at the open end, which is then closed upon it. I believe it was in partial use under the native governments which preceded us in the Madras territories, both as a means of inducing confession in police matters, and payment of arrears of revenue by defaulters. Applying it to the hand, placing a person in the sun with a stone on his head, and sometimes with the trigger of a matchlock shut upon his ear, were means resorted to by the officers of the native governments, for the purposes above mentioned, which, though entirely discouraged by us, may still partially prevail where the European authority is not so efficient as to check such abuses on the part of our native agency. In revenue matters it has been very generally discontinued, in consequence of the enactments in our Regulations of 1802 rendering the native officer subject to prosecution in the courts for any such measure. I only recollect one instance of its use by a native revenue officer subsequent to those enactments, which occurred in the Bellary district during the administration of my predecessor there, who in consequence of the native officer being convicted of that offence, removed him from his situation; my impression is that he considered him, otherwise, a very able native agent. *Alex. D. Campbell, Esq.* 18 April 1832.

1017. How far do you think it would be proper to invest the Governor-General and the other governors at the different presidencies with the power of selecting natives, either at the presidencies or in the interior, to act as justices of the peace in all cases for the preservation of the public peace, or for the purpose of committing

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mitting persons accused of offences for trial?—I think it highly desirable that such a power should be vested in the local governments. But in making any enactment on this point, Parliament should distinguish the powers vested in the district magistrate of the provinces, by the general enactments of the local governments, over the natives only, and the distinct powers vested in the same European officer, as a justice of the peace, by the statute or common law of England, over Europeans alone. The powers of committal and punishment vested in him in the former capacity have, in the Madras territories, been most extensively conferred on the native officers under him. In his latter capacity, he cannot depute his powers. Indeed, in India the powers exercised by justices of the peace are of two descriptions; the one by the justices in the interior over Europeans exclusively under the English law, the other by justices at the presidency over both natives and Europeans partly under the English law, partly under the *presidency* laws enacted by the local government. I am of opinion, that with regard to the latter description of cases, viz., those at the presidency, there are many natives to be found amongst those there resident who are perhaps more able even than the European justices to decide on the cases of natives, and that it would be expedient to make it imperative on the local governments to select native gentlemen at each presidency to sit with the European justices on the trial of such cases. With regard to the committal or trial of *Europeans* by natives, I think it involves, in a considerable degree, not only the feelings of Englishmen, but a political question connected with our peculiar government in India; and I doubt whether we should not lower ourselves in the estimation of our subjects, if we rendered cases involving any high offences by Europeans cognizable by the natives *exclusively*. In such cases the Europeans accused would also insist strongly on the right to trial by jury; and I conceive that the preferable mode would be to throw such cases, as far as possible, into the hands of Europeans, and if vested in the natives at all, that they should act as assessors with the European authorities, not independently of them. A native judge would feel perhaps as averse to try or commit such Europeans for trial, as the European would to submit to his authority, on account of the accused belonging to the caste of the government. Independently of this, the notions which the natives entertain of the law of evidence are in many respects very different from ours; and the natives would, and do now daily, act upon evidence which any European authority would deem quite inadequate to justify the determination to which the native authority, acting without European assistance, would and indeed does come.

1018. The last question did not contemplate the trial either of Europeans or of natives, but simply that preliminary proceeding which consists in the apprehension of persons accused of offences, in committing them for a more regular trial; the question is rather how far natives would be fit for that preliminary sort of jurisdiction, than how far it would be proper to commit the actual trial of European offenders to their cognizance?—I consider natives perfectly competent to exercise all the powers of investigating criminal offences even by Europeans, previous to commitment; and all the higher native police officers in the Madras provinces do now in fact exercise such authority, in the case of European soldiers committing murder or other grave offences within 120 miles of the presidency, where no justice of the peace is present. The great difficulty with which a native has to contend, in conducting such duty well, consists not in any incompetency on his part, but in the peculiar laws of our own country regarding Europeans. They are at present subject only to the British criminal law, if British born subjects; and the higher courts before whom the case may come might feel greatly at a loss in charging a grand jury regarding the case, or in the event of the jury finding a bill, in the trial of the case itself, if it involved anything of the nature of a confession, or if the proceedings of the native tribunal were defective in that tenderness towards a prisoner, or in any other rules of evidence, which most justices of the peace understand to be essential for correct proceedings on their part, with a view to ulterior proceedings in a higher court.

1019. Supposing either at one of the presidencies, or in the interior of the country, an European to commit a serious offence in the face of day, and no European justice of the peace to be immediately accessible, and such European to be taken before a native committing officer, what power has such native officer of taking cognizance of the case, of inquiring into the facts, and of placing matters in train for the trial of the offender by the supreme court of judicature?—The officers of police *at the presidency* possess no power whatever, except that of arrest;

arrest; they cannot take any written depositions whatever; and the European authorities exclusively are competent to commit either natives or Europeans for trial before the King's supreme court there. But in the Madras *provinces*, the superior native officer of district police has cognizance of cases, in the same manner as a justice of the peace in this country; he punishes petty offences by natives, of his own authority, and for higher offences commits natives for trial before the higher courts. As regards Europeans, however, his duty is confined to holding an inquest on the bodies of any deceased persons, to taking written depositions from all parties who have any knowledge of the matter, and to forwarding the case in this shape to the European justice of the peace, who, according to the English law, as explained in Regulation IV., 1809, of the Madras code, has exclusively the power of committing European British subjects for trial. In all such cases, on the matter coming before the European authority, whether at the presidency or in the provinces, new depositions must be taken *ab initio*, and the whole matter must be treated as if it had come before the European authority in the first instance.

1020. Do you see any objections to some regulation by which, under whatever restrictions, a power of committal for trial should be given to native officers selected for that purpose?—I see not the smallest objection, if such natives possess a competent knowledge of the English law, or if the law to which the accused is to be made amenable is so altered from the English law, as to be clearly understood by the natives appointed to exercise that authority.

1021. It is understood that justices of the peace have a conclusive jurisdiction in certain criminal cases of a lower kind, is that the fact?—Justices of the peace *in the interior*, under the Act of Parliament passed previously to the last renewal of the Company's Charter, possess power of deciding petty cases of assault committed by Europeans. *At the presidency*, justices of the peace possess the same authority over Europeans; but in addition to that, further authority is vested in them, under regulations of the local governments, drawn up for the good government of the metropolis of each presidency, and registered as the law requires in the King's supreme court. Their jurisdiction, in this respect, extends both over Europeans, and the natives at the presidency subject to the criminal jurisdiction of the supreme court.

1022. Are you of opinion that there should be a power in the governments to select natives who should be invested with those functions which you have described, the exercise of such functions extending both to natives and to Europeans?—I think that, *at the presidency*, it is exceedingly desirable to confer such authority on native gentlemen, both as regards Europeans and natives; such native gentlemen acting, as the Europeans now do, in conjunction with their other brethren of the bench, including Europeans. I myself have presided as superintendent of police over the bench of magistrates at Madras, and the cases coming before that tribunal consist of an exceedingly numerous class of petty offences, respecting which the whole of the evidence is generally that of natives exclusively. That bench also possesses authority to assess the town of Madras for the purpose of lighting the town, and of the police; and I consider the native gentlemen of the place more competent than ourselves to decide on native testimony, and much more interested than we are in the just levy and due application of the funds, to which they themselves largely contribute. It is their exclusion from a seat on the bench of the magistrates *at the presidency*, which I consider the higher classes of the native community at all our three presidencies to view as a severe grievance.

1023. Supposing natives to be made eligible to the situations in question, should you conceive that such eligibility ought to be confined to natives unconnected with government, such as merchants or landholders, or that it should be extended even to those who are dependant upon our government, or officially employed under it?—I do not think that any class of the natives should be excluded; but I conceive that, practically, the government never would thus employ any of the native officers under themselves; for all natives in public offices have too much to do to attend to this duty. The selection should not be confined to the class of landholders, few of whom exist at some of the presidencies, but ought to be made generally from the resident native gentry of the place, possessing most influence, and of the highest character in the estimation of their own countrymen. These persons are well known to all the local governments of India.

1024. Would not such a regulation have a tendency to raise the character of the natives at the presidency?—I think it calculated to raise the character of the natives

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at the presidency, which is also the place of all others, where it is of the greatest importance that their character should be raised.

1025. How far should you think it expedient to extend this privilege to native gentlemen in the provinces?—I doubt the expediency of extending it to them in the provinces, because there the principal native gentry are the resident landholders, against whom principally most complaints are made by the lower classes of the people; and as they seldom see any European, except those in the King's or Company's service, they would shrink from the performance of such a duty, over any except the very lowest classes of Europeans, including the European soldiery. I have already alluded to the questionable policy of such a measure. If a more extended intercourse of Europeans with India were established, and the native gentry in the interior became better acquainted with that class of people than they now are, perhaps the present objections against extending such a measure to the provinces might, so far as Europeans are concerned, gradually disappear.

1026. Then, on the whole, are you of opinion that the experiment of extending the functions in question to the natives should, in the first instance, be tried at the presidencies?—I think that it should be tried, and would there work well.

1027. You have been a good deal examined before the Public or Miscellaneous Committee, on the subject of establishing a legislative council in India; does it occur to you to give any information or opinion upon that subject, which you have not stated before that Committee?—I do not think that I have anything material to add to my former evidence on that subject.

1028. Do you think that the relaxation of the restrictions which a good deal prevent Europeans from entering into the interior of India and forming establishments there, would in fact be attended with the effect of the greatly increased settlement or residence of Europeans in the provinces?—I am inclined to think that it would increase the number of settlers, particularly under the Madras presidency, where the restrictions against the residence of Europeans, not in the service, have been more rigidly enforced than elsewhere, and where I think European capital and skill would find in many cases very useful and beneficial employment; but I do not think they would colonize or settle permanently in India.

1029. Would the introduction of Europeans, as competitors with the natives, in the different branches of trade, agriculture or manufacture, operate upon the whole favourably for the natives in the interior?—Decidedly so; I can contemplate no instance of their operating otherwise. I speak with reference to the few cases in which Europeans have found admission into the Madras territories.

1030. Would the immediate effect of a successful competition be injurious to those who were worsted?—There would be hardly any competition. There could be none with the great mass, viz., the lower agricultural classes of the natives, for no European could, with success, attempt competition with them, nor with the more numerous portion of the other natives employed in actual labour or in the minor branches of trade, on account of the much cheaper rate at which natives live, compared with that of the expenses of the lowest class of Europeans, whose wants are much greater in India than in their own country. The same cause renders it unlikely that any European artisan could successfully compete with the Indian of a similar rank. The great want at Madras is want of capital, both amongst the agriculturists and the traders of the country. The whole of the country is in this respect very much exhausted; and I think that the successful class of European settlers would be those who might employ a large capital in the improvement of the irrigation, or of the agriculture, of the country, or in extensive trade. This would introduce a new set of men into the Madras provinces, distinct from any considerable class of the natives known there.

1031. Do you mean to say that neither native labour on the one hand, nor European capital on the other, would find any competition to cope with it?—Yes, that is my general impression; I also think that European invention, skill, enterprise and superior ability, would lead many of the few natives who do possess capital to join their capital with that of Europeans, more to the benefit of themselves than it is now employed.

1032-3. What natives do you think would contribute their capital in that manner?—The few native capitalists at the presidency, and gradually those in the interior also.

Veneris, 29° die Junii, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

James Mill, Esq., called in; and Examined.

IV. JUDICIAL.

James Mill, Esq. 29 June 1832.

1034. HAVE you considered the present state of the law in India, and the provisions which have been made for its administration?—In some degree, I have.

1035. What is your opinion as to the practical effect of the system, and in what degree is the administration of the English law by the supreme courts in India necessary or advantageous?—It has always appeared to me, that two systems of law in any country were a thing of itself objectionable. As far as possible, the people should have but one set of rules to govern their conduct, and those rule as simple as possible, in order that they may be more perfectly known. Two systems of law imply, besides complexity, the expense of two judicial establishments one for each. The inconvenience, I conceive to be exceedingly enhanced, when th two systems are liable to come on the same ground; that is, when a distinct line i not drawn between the classes of individuals subject to each. In India the limit of jurisdiction have been exceedingly ill defined. The jurisdiction of the supreme courts is extended over the natives to a great, and by no means a well defined degree, whence it happens, that the same persons are subject to two differen and highly dissimilar systems of law; and as they are a simple and ignorant people guided by what they see and hear, and with very little reflection, the confusion thus created in their minds may be easily conceived. The history of the introduction o English law shows that the circumstances which originally called for it have entirely gone by. When it was first introduced, we had no territorial possession in India, and no subjects: the English were a small number of individuals allowed to establish themselves in the territory of a foreign sovereign: established in a country where the provisions for the administration of justice were most imperfect the English found themselves exceedingly at a loss: not only questions of property arose among themselves, but a great demand was felt for the suppression and punishment of crimes. It was not considered expedient to have recourse to the tribunals of the country, more especially in criminal cases, both because trust could not be reposed in the equity of the sentence, and because punishments were barbarous; they therefore obtained from the Government at home a charter for the administration of justice amongst themselves, and in the circumstances of that time the expediency of administering English law, there being no others than English men to administer it to, cannot be doubted; but the nature of the case was totally changed when we became the sovereigns of those territories, and established tribunals of our own for the population contained in them. We, however, continued the establishment for the administration of English law to the small number of Englishmen, after the tribunals of the country were ours, in the same manner as we did when the tribunals were the tribunals of a barbarous government, and when we could have no confidence in them. It appears to me, that the purposes which those institutions were intended to serve, not now having any existence, there is no occasion for them. The tribunals of the country are no longer the tribunals of a barbarous sovereign, but our own tribunals; and therefore to maintain a special set of tribunals for a small number of individuals mixed with the immense population of the country, appears to me in the first place needless, and on account of the inconvenience with which it is necessarily connected, highly impolitic.

1036. Are you not perfectly aware that the supreme courts of judicature, as now constituted, were introduced under circumstances somewhat varied from those which you have described, as the circumstances under which the introduction of the English law took place; that they were introduced after we acquired territorial dominion, and with the special view of checking abuses, or supposed abuses committed under the Company's government; advert to that view of the subject and consider whether it does, in any and what respect, affect your former answer?—I am aware that the supreme courts, as now constituted, were introduced subsequently to our obtaining the territory. The courts were established on the present footing, partly with the view of improving the administration of English law, and partly under the supposition now mentioned, that they would afford security against injuries

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injuries committed by the local government. The courts of English law can interfere with the acts of the government only when illegal acts have been committed against Englishmen. I am not aware that the history of them affords any great experience of their utility in that respect; the instances are few, I think, in which the government have been charged with injuries to Englishmen, for which the supreme courts could afford redress. Besides, it appears to me that an Englishman residing in India will always have abundant means of making known his complaints, and urging his claims to redress, if supreme courts were put out of existence.

1037. Do you think that any inconvenience would arise from the doing away with the supreme courts, from this circumstance, that these have now been established for some time, and there are considerable communities which have grown up at the different presidencies, who have been habituated to this jurisdiction, and they are generally supposed to be content with it?—It may be that the change of system would be felt as an inconvenience at first, because a change in anything to which people have been accustomed, especially in what touches their interest so strongly as a system of law, disturbs their thoughts a little when it first takes place. But that disturbance, I think, would speedily wear off, and after all, is nothing of an inconvenience compared with that which seems inseparable from the existence of two exceedingly different and conflicting systems of law in the same country.

1038. It has been alleged by several persons that the natives do, in fact, feel a great confidence in the supreme courts, and a confidence derived principally from the notion that it is a sort of check on the Company; how far do you assent to their opinion?—The natives of Calcutta and of the other presidencies have a confidence in the supreme courts on two accounts. In the first place, they are under the superintendence of a jealous and intelligent public; a good ground of confidence always. That, however, would not be excluded under any arrangement by which the present courts would be superseded. I know not any ground of confidence which, in such a case, would be taken away, except the idea that the supreme courts rest upon an authority superior to that of the government. Now it appears to me, that this last ground, so far from being an advantage, is altogether an evil, and of great magnitude. The existence of a double authority in the same country of two independent authorities, can never lead to good, must always act unfavourably on the willing obedience of the people, which is the strong arm of the government. It never can be reconciled to common sense, that an authority should exist in any country pretending to be superior to that government to which all must pay obedience, and to which all look up for protection. I think, therefore, the existence of courts upon a footing different from the will of the government of the country, is altogether to be avoided; and that, even if it were deemed expedient to maintain courts for the administration of the English law for Englishmen, it would be a most important improvement to make the commission of the judges run in the name of the government rather than in the name of the King. The same independence might be secured to them in the one case as in the other; they might be equally appointed for life, and responsible for their good behaviour to the same authorities.

1039. Do you think any advantage is obtained by having courts in India which are in sympathy with the judicature of this country, and the judges of which are supplied immediately from the body of English barristers?—With regard to the mass of the people in India, I do not see how that circumstance should have any operation at all. With regard to the Englishmen, they may be supposed to be attached to their own laws, and possibly enough would have objections to be deprived of what they call the protection of English laws. But that is a feeling which, if substantial security were afforded them by other arrangements both for their properties and their persons, I think would speedily give way, and at all events ought not to stand in the way of arrangements that are of importance to the good government of India.

1040. The question being in what manner the objects of good government are best to be secured to the natives, is it of no advantage to them that the supreme courts exhibit in their capitals a standard of judicial administration which is asserted by an authority paramount to that of the Company, and to its practice the Company's courts may in some degree conform their own?—I question very much the idea that the operation of the supreme courts has had any influence in ameliorating the proceedings of the native courts, not only because the two systems are so exceedingly different, but because the intercourse and acquaintance with the proceedings of the supreme courts are extended to so minute a portion of

the population and their judges. I may add, that in my opinion the English courts afford more examples of what is to be avoided than what is to be followed in tribunals erected in India.

1041. Do you conceive that at the presidencies an assimilation could be easily made of the English law, which prevails there almost entirely, to any system of law which should also be administered to the natives in the provinces?—The change I should contemplate at the presidencies, in the first instance at least, would be a change with respect to the judicial establishment and the form of procedure, rather than in the law itself. In point of fact, what the supreme court now does is to administer English law to Englishmen, and native law to the natives, though both according to the forms of the English courts. Now, the difference in my contemplation would be, that English law would still be administered to Englishmen, and the native law to the natives, but according to the forms that might be adopted as best applicable to the courts of the country generally. The questions which fall for discussion in courts of law generally, and in India with few exceptions, come under the two great heads of inheritance and contract. As far as questions of contract are concerned, the leading principle of law is the same everywhere, the interpretation of the will of the contracting parties. With respect to inheritance, it is the uniform principle of all the tribunals in India to attend to what is the law of the party before the court; to administer the Mahomedan law of inheritance where the party is a Mahomedan, the Hindoo law of inheritance where the party is a Hindoo, and the English law of inheritance where the party is an Englishman; nor do I see what should hinder the same thing from being done with correctness under the change which I contemplate.

1042. State your opinion as to the efficiency of the country courts, as at present established?—I conceive that as at present established, they labour under considerable defects. When courts for the administration of law to the natives were first established by our government in India, they consisted of three grades, the Zillah Courts, the Provincial Courts, and the Sudder Adawlut; all three were courts of original jurisdiction, but rose above one another in the amount on which they could adjudicate. The zillah courts, of which one existed in each considerable district, had jurisdiction of all causes up to a certain amount; the provincial courts, each of which included the local limits of several zillahs, had original jurisdiction from the point at which the zillah courts stopped, up to a considerably higher amount; and the sudder court, the jurisdiction of which included the whole country, had original jurisdiction in all the higher sums; the provincial courts were, besides, courts of appeal from the zillah courts; and the sudder adawlut was the court of appeal from the original jurisdiction of the provincial courts: such was the provision for civil judicature, both original and appellate. The provincial courts had confided to them, besides, the entire criminal jurisdiction of the country, with the exception of the duties called magisterial, imposed on the zillah judges, including a portion of criminal jurisdiction, analagous to that possessed by the justices of the peace in England, acting singly. Experience discovered, that the establishment, as thus formed, was, in point of extent, unequal to the business which was to be performed. The tribunals of all the grades were unable to get through with that portion of the business which fell to their share. To supply the deficiency of the zillah courts, natives were employed as judges, to decide causes of a small amount. There were then four grades of tribunals of original jurisdiction, native judges, zillah courts, provincial courts, and sudder dewanny adawlut, rising one above another by the amount of the sums for which they could adjudicate, and the one immediately above always acting as an appellate court to the one below. The use of the native judges, the amount for which they could adjudicate, has gone on increasing, till by a recent decision of the government, they are to be intrusted with nearly the whole jurisdiction in the first instance; they are to try all causes up to the amount of 5,000 rupees; and causes in India for sums exceeding this are comparatively few. In the meantime it was also found that the business of the provincial courts, including criminal jurisdiction, with the portion of original and appellate jurisdiction in civil matters assigned to them, was much more than what they were able to accomplish. In 1829 the resolution was adopted of appointing functionaries, called commissioners of revenue and circuit, who among other duties were intended to exercise the whole of the criminal jurisdiction which had belonged to the provincial courts; that scheme proved a failure from the beginning; the commissioners were too few for the duties with which they were charged.

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A resolution has been recently adopted to relieve those commissioners from the whole of their criminal jurisdiction, that is to say, the judicial duties which had been assigned to them; and in consequence of this, a great change in the whole of the judicial establishment has been resorted to. The jurisdiction in the first instance has been confided to native judges up to 5,000 rupees; and the zillah judges, being thus relieved of almost the whole of their original jurisdiction, are to have the criminal jurisdiction of the country. The system therefore will stand thus: the civil jurisdiction in the first instance, almost wholly in the hands of the native judges; the zillah judges to be judges in appeal from the native judges; the sudder adawlut judges in appeal from the cases decided by the zillah judges; and the zillah judges, besides their original and appellate jurisdiction, to have the criminal jurisdiction entirely; it being part of the plan, that the provincial courts should be abolished.

1043. In what respect might that system be considered equal to its objects, and in what respect deficient?—I think it is much to be feared that an amount of duty beyond what they will be able to accomplish, is assigned to the zillah judges. They are to receive appeals from the native judges, who must be very numerous; they are to have upon their hands the criminal jurisdiction of their districts, and besides all this, a portion of original jurisdiction, viz. in the higher sums reserved to them. One of the most defective parts of our Indian system has always been that of appeal. It appears to me that the correct notion of appeal has not been kept in view: one error, I think, has consisted in giving the business of appeal to courts the principal part of whose time and attention was absorbed by judicature in the first instance. There appears to me one obvious and great advantage in courts for the business of appeal exclusively, and others for original jurisdiction exclusively, and that the two species of jurisdiction should not be joined. A still greater error has been committed in India, by an incorrect notion of the real business of appeal. Courts of appeal acting as such have considered it competent to them to take new evidence, by which in reality their functions ceased to be those of an appellate court, and became a new trial, from which trial of the same cause only by another tribunal, there was in reality no appeal at all. I consider the objection to the taking of fresh evidence in appeal as quite radical: besides its being in fact a decision without appeal, it interferes with other advantages of great importance. If you confine the proceedings on appeal to what is substantially appellate judicature, you may always have your appeals brought before the best tribunals, because nothing being submitted to the court of appeal but the pleadings and evidence, there is no occasion for the attendance either of witnesses or the parties; and the distance of the appellate court from the abode of the parties is therefore a matter of indifference.

1044. Would you think it advantageous, in cases where fresh evidence arises in the appellate court, to send back the cause for trial to another court?—The complaints which come before the appellate court must at the utmost be of three kinds: the appellant complains either that evidence which ought to have been taken has not been taken, or that the evidence taken has not been duly weighed, or that the law has not been properly applied. Now with regard to two of these questions, namely, whether the evidence has been properly weighed and the proper decisions come to, and whether the law has been properly applied, the appellate court is competent to decide them upon the mere view of the record. If the complaint should be, that evidence which ought to have been taken was not taken, the proper course for the appellate court is to send the cause back to the original court, where justice seems to require it, with an order to take the evidence and pass a fresh decree.

1045. In both these cases, would it not retain its real character of an appellate court?—It would do so, confining its functions expressly to the appellate business.

1046. You were proceeding to state the defects of the system as last established in India in the native courts; have you any further remarks to make upon that head?—Another of the defects of the existing courts has been their system of procedure. With a view to avoid prolixity and complication of the pleadings in English law, it has been attempted to confine them to two instruments, the plaint and the answer, and to confine them to the setting forth of material points only. But the business being left to the management of ignorant parties and their ignorant advisers, it rarely happens that the real point in dispute is elicited or an issue joined, and the case comes on for trial before the judge with little or no preparation: the parties seldom know to what points evidence will be required. The attendance of numerous witnesses, the great distance they have to come, the uncertainty

when their cause will be heard, and the necessity of a long and expensive attendance, constitutes such an obstruction to the business of justice in India as has rendered it almost nugatory with regard to a great proportion of the people. Another objection of mine to the courts in India is, that they have been established upon the principle of one sort of courts for sums of small amount, another sort of courts for sums of higher, the best tribunals for the highest sums, the worst tribunals for the lowest; declaring, in fact, that more care is due to prevent wrongs done to the rich than wrongs done to the poor. The opinion which has obtained but too generally, appears to me most erroneous, that suits for the small sums are suits of the least importance. I think, in point of importance, the reverse is the right order; and I am not sure that the causes for small sums are those which it is the most easy to decide.

1047. Why do you think they are not the most easy to decide?—I do not mean that they are apt to be the most complicated, but that it is most difficult to provide security for the fair and honest decision of them: the rich man can make a noise, and will be heard if he is wronged. The case of a rich man creates attention, that of the smaller sums escape observation. The great difficulty in India, where there is little aid from publicity, is, I fully believe, in securing honest decision for the smaller sums. Another point on which I think they have erred in India is this, that when they found the number of tribunals too small for the business to be performed, they have so long persisted in forming tribunals with more judges than one. A single judge can at all events get through with a greater amount of business than several judges sitting together, because no time is lost in hearing one another; and there are strong reasons for believing that the securities even for good judicature are greater in the case of a single judge than when the judicatory is more numerous.

1048. Can you suggest any and what improvement in that system, directing your attention first to the judicial establishment?—In India there is a necessity for numerous tribunals, because if justice is not brought near to the poor ryot in India, he is denied access to it altogether; it is therefore not a matter of choice but necessity, to confide judicature in the first instance very extensively to the natives. It has at last become a prevalent idea, that the best arrangement would be to confide judicature in the first instance entirely to the natives, reserving the business of appeal to Europeans. The supreme government in India have now proposed to go very nearly to that extent, confiding the trial of all causes up to 5,000 rupees to native judges. When they had gone so far, I do not see why they should not have gone a step further, and have simplified the system, by confiding jurisdiction in the first instance wholly to the native judges. I confess in the mental state of the natives at present, I should have been afraid to have gone so far; but if they are competent to 5,000 rupees, they are also competent to all the rest. We have however the means, I think, of providing a very considerable security beyond what has been proposed by the Bengal government, against the defects which cannot but be anticipated at first in the judicature of the natives judges. According to my idea of appeal, we should have a temporary resource of a very important kind in the zillah judges, to whom I would give concurrent jurisdiction with the native judges. I think there should be only one appeal from any court; and there being but one appeal it should always go to the best tribunal. The best tribunal they have in India is the sudder adawlut; I therefore think the appeals from the native judges, instead of going as now to the zillah judges, should go to the sudder adawlut directly: such alteration would then be necessary in the sudder adawlut as would enable them to discharge the business promptly. I consider it of the essence of appeal, and that upon which a great portion of the benefit of it depends, that it should be decided promptly. If the business of appeal be as simple as I conceive that it is, there would be no objection to appeals going to Calcutta from all parts of the presidency, even the most distant; because the proceedings before the original court might easily be transmitted by the post. By going to Calcutta they would have two first-rate advantages, that of the best judges, and that of the best public. The judges of the sudder adawlut should sit separately, each judge deciding as many appeals as in his power, the number being sufficiently increased to get expeditiously through the business. As one of the uses to be derived from courts of appeal, a use of peculiar importance where local courts are numerous, the law ill established, and the qualifications of the judges not high, is to secure uniformity in the law, an additional and imperative reason thence arises from the presence of the appellate courts on the same spot.

1049. Would it not be difficult to transmit the legal documents to so great a distance?

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a distance?—When papers are to be transmitted by the post, whether the distance is 100 or 500 miles is very immaterial. The proper arrangement, I think, would be that the judges should all sit in one hall of justice, but that each should have his separate apartment open to the public, and that only when a doubtful question on a matter of law arose, they should deliberate and decide in common.

1050. What do you think of the suggestion, that there should be two sudder adawluts, one for the Lower and another for the Upper Provinces?—I should prefer having the appellate tribunal at Calcutta, because the inconvenience of transmitting documents the additional distance is not material; and the public at Calcutta is so much superior, as to be an advantage of the greatest importance. For the sake also of a more perfect uniformity in the decisions of the judges, and of course in the law, they ought to be all on the same spot. As I have now described it, we should have a judicial establishment exceedingly simple: tribunals of native judges for original jurisdiction in all parts of the country, and a tribunal of appeal at the Presidency.

1051. Do you conceive native judges could be intrusted with exercising their functions, without the presence of any European judge?—The native judges are much less fit for the trust to be reposed in them than is to be wished, but there is no remedy; there are no means of having Europeans with them, and we must look out for other securities, and provide the best we can. One to which I have as yet only alluded, would be the concurrent jurisdiction of the zillah judges. As, according to my plan, they would be relieved of all the jurisdiction, both civil and criminal, now assigned them, their whole time would be at disposal, and I would retain them as judges with original jurisdiction, the same as the native judges, giving the option to the people of going before either; a test would be thereby immediately afforded of the degree of trust reposed by the people in the native judges, and a greater check would be thereby applied to them, than by anything, in addition to the appeal, which I think we have the means of providing. Something might also be done by the appointment of assessors to the judge, who might be chosen something in the way in which we choose a jury, and would act as a sort of public.

1052. You have as yet suggested no observations with regard to the administration of criminal justice; will you state any observations which occur to you upon that subject?—The business of criminal judicature has generally been treated as more difficult, or at least it has been thought that its errors required to be more carefully guarded against than those of civil judicature. But I doubt whether it is an opinion which is well founded; criminal judicature may be considered as more simple than civil, as really requiring less discrimination and acuteness of mind than a large proportion of civil cases. The injury liable to be sustained by bad judicature in civil matters is often more serious than in penal matters; setting aside the cases of the higher punishments, particularly those implying irremediable injury. If then I am right in this my opinion, that the business of penal judicature is to the full as easy as civil judicature and that it is not more difficult to take securities against the evils liable to be incurred by bad judicature in the one case than the other, there is no reason why the judges to whom the whole of the civil jurisdiction is assigned, should not also be the criminal judges. That being my opinion, I would make the native judges, criminal as well as civil judges. So long, however, as the native judges in India are as imperfect as they now are, it would be desirable and necessary to stay execution in all cases not of a very moderate degree of punishment, till the proceedings were reviewed by the sudder adawlut. There would be the inconvenience in that case of taking down in writing the proceedings and evidence; but this, I think, would be amply compensated by the advantages which would attend the arrangement. Some further provisions may be thought necessary with regard to very high punishments, especially those implying irremediable injury, above all, death; but it appears to me that the punishment of death in India might be kept within very narrow bounds, if not altogether abolished: it is known to be part of the character of the natives, to stand more in awe of other punishments than of the loss of life.

1053. What is the punishment more effective on the inhabitants in India than the capital punishment?—They dislike hard labour more, and banishment; and in truth the punishment of death even at present is sparingly inflicted.

1054. Do you apply your system of having native judges in the courts, to criminal cases occurring between a native and an European?—Yes; all questions

occurring within the district to be decided in the same manner, whoever the parties may be.

1055. Do you think that it would satisfy an European that his case, either civil or criminal, should be decided in the provinces in those courts where only natives are judges?—The security to the European would be such as I think ought to satisfy him, because he would always have, in the last resort, the benefit of decision by an European judge of the highest grade, and acting under the strongest responsibility. Considerable objection is likely to rise in the mind of an Englishman at the first idea of being subject to punishment upon the award of a native judge. But as all decisions of a native judge awarding punishment beyond a very slight one should be stayed until the cause is reviewed by the superior court, no punishment beyond a very slight one would be inflicted upon an Englishman, except by the authority of the English judge.

1056. Do you think that Europeans would be satisfied by having their case decided by judges without a jury?—I think that having security for good decision, they ought to be satisfied. But if the prejudices of Englishmen should raise insuperable obstructions, a special provision might be made for them; a recorder's court might exist at the three presidencies to try Englishmen in the more highly penal cases, and then they might have the satisfaction of a jury also.

1057. If an extension of liberty is granted to Europeans to reside in the country, would it not be fair to exact from them, as a condition of such residence, that they should be subject to the same laws as the natives?—I think not only that it would be reasonable, but that it would be indispensable.

1058. Be so good as to offer any suggestions that occur to you with respect to the improvement in the mode of judicial procedure?—I think the mode of judicial investigation which has been common in India, is to a very considerable degree faulty. It has erred, in the first place, by a very unnecessary departure from the practice to which the natives were accustomed; I mean that of parties appearing personally before the judge and stating their own case. I believe that in India few things would be more efficient for the purposes of justice than oral pleading, which, properly managed, I deem an instrument of inestimable value. The judicial investigation divides itself into two parts; the first, what in England we call the pleadings; the second, what we call the trial. The first part consists in the essence and nature of the thing, in the statements and counter-statements of the parties; and the use of those statements and counter-statements is, that the exact point upon which the controversy turns may be ascertained. This is a matter of so much importance to a right decision, that it never ought to be intrusted to any body but the judge. When the parties are asked by the judge what is their demand and what the ground of it; what the defence, and the ground of it, he sees immediately what is relevant and what is not so, he discriminates what is well founded from what is ill founded, and is so far able, by clearing off all that is unsound and superfluous, to get at the merits of the case, to fix upon the exact point at which the controversy turns. This mode of proceeding is found by experience to have this other most important consequence. When the statements and counter-statements of the parties are made before the judge under the best securities for veracity, a very great proportion of causes stop there, and are satisfactorily conducted. The scrutiny of their statements by the judge enables the parties themselves to see whether they have grounds or not; they consent that a judgment should be pronounced at the first hearing, and all is over without delay and without the expense of a trial. When doubt remains, it is either with regard to a matter of fact or a matter of law: when the matter of fact on which the question turns is affirmed on the one side and denied on the other, then comes the trial, the object of which is to ascertain the truth with respect to the particular fact by evidence. But as the judge himself has thus determined the very fact which is to be proved, no witnesses are called but to speak to that fact. The judge might limit the number of witnesses, and the expense attending it still further; he might require of the parties a list of the witnesses each expected to speak to the point; and by questions eliciting what they are expected to know, and why, the judge would be enabled to discriminate what witnesses there would be any advantage in having, and what there would be no advantage in having, and it might be proper in him in such case, assigning his reasons, to grant his summons for such only as he thought would be useful.

1059. I want to know whether it would be possible to leave the parties to call the witnesses on each side?—The reason why the choice should be left to the judge

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is, that no witnesses but those who are likely to be really useful, should be subjected to the burden of attendance. The course of proceeding which is now followed in the courts, is attended with very different effects. The pleading, as the first part of the judicial investigation is called, is all in writing, and is reduced to a statement of the demand on the part of the plaintiff, and a statement of the defence on the other part: it is enjoined on them that they should confine themselves to the points which are in dispute. In reality, however, the instruments being prepared by the parties themselves and their advisers, who are incapable of discriminating the point in dispute, are a confused mass of allegations, and are so far from being intended by them to be the real representation of the truth, that they are as wide a departure from it as they can contrive, with any semblance of truth, to make it. There is in reality in this mode of proceeding no issue joined. Two great evils are incurred: one is, that every case, instead of stopping at the first stage, of necessity goes on also to the second, and incurs all the expense of the trial, necessary or not: the second is, that parties, not knowing to what particular facts or points witnesses will be required, are under the necessity of bringing them to every point for which they think it is at all probable they may be needed. With respect to the second part of the judicial investigation, viz. the trial, there is one thing which I should mention, a practice common in Bengal at least, which has been pressed upon them by the amount of business and want of time on the part of the judges; I mean the practice of taking evidence by deputy. A great deal of the evidence is there not taken by the judges themselves, but by the native officers of their courts, and reported to the judges, who decide upon this reported and very untrustworthy evidence.

1060. Have you any suggestions to offer with respect to the law that should be administered in our provinces in India?—The state of the law, the native law in India, is very imperfect; so little is there of what can be called law, that the business of the courts is little less than arbitration. Of law in India, resting on the authority of any legislature, there is none. There are certain books which they call law-books, but they contain only the opinions of certain individuals, and their talk is so general, so exceedingly loose, that it affords little or no direction. The customs of India are in fact the laws of India, that by which almost all rights are created and maintained; and these customs, at least in the great features, have luckily much uniformity. The judges in India have thus a peculiar duty; they have to take evidence not only to the matters of fact which come in dispute before them, but to ascertain the law; that is, to gather from the testimony of witnesses what is the custom of the country and of the place. Here the great practical question is, what can be done to classify and record those customs in a book, under such well defined heads and such accurate expressions as would give them in any degree the instructive operation of laws? It appears to me that a great deal might be accomplished. The leading customs which constitute the great directing principles in India, are not so many but that they might be comprehended in general propositions or maxims, which might receive by the Legislature the authority of laws, and thence by degrees a code of laws not interfering with, or disturbing existing rights, but in reality confirming and establishing them, might be obtained. The regulations of the government have to a great degree superseded the Mahomedan penal law, which was general in India when we established our dominion there. Our penal law, however, has not much accuracy, and all offences are classed under a few very general heads, so that a very large discretion remains with the judge: but there would be no great difficulty in breaking down those large classifications into subordinate ones, in such a manner as to render the penal law sufficiently precise. It is by no means impracticable to obtain in writing such general maxims both in the civil and penal branches of substantive law, as would afford a tolerable rule for the judges in India.

1061. You have spoken of the courts that have administered one system of law to Englishmen in India, and another system to the different classes of natives. On the supposition that Englishmen were allowed to hold land in India, would you introduce the English law of inheritance?—Not by preference. Uniformity is an important advantage, and the law of inheritance with respect to land should be the same as with respect to chattels, which is the law of the natives: but if it was considered by Englishmen a matter of importance that the law of primogeniture should be preserved, it does not occur to me that more than an inconvenience would be sustained by indulging them.

1062. Do

1062. Do you mean in the system of oral pleading recommended by you, to do away with the present system of plaint and answer?—Yes.

1063. Would you have the issue settled entirely by the judges?—Yes.

1064. Have you considered the subject of appeals from India to England?—I have thought of it certainly as a part of the general system.

1065. Do you consider the present system on that head as proper and efficient?—The mode of appeal against decisions in India, to the Privy Council in England, is undoubtedly very defective as hitherto managed. Appeals have been instituted, but no provision having been made for prosecuting them here, the misery of unfinished suits has been the consequence. Steps towards a remedy have been recently taken: it has been under the consideration both of the Court of Directors and the Privy Council, how this evil might be removed. If appeals are to come from India, provision ought undoubtedly to be made in some way or other for their being speedily brought to a hearing and conclusion; but it has never appeared to me, that for attaining the ends of justice substantially, an appeal to England is in reality needed. If you take, as you ought to do, the best precautions for obtaining correct decisions in India, it is unnecessary to go any further. It would be too much to assume, that injustice, after all we can do, would never be committed by the courts in India, because we never can have all perfect securities against injustice; but there is great advantage in having an end of litigation; and I am not apprehensive of so many instances of failure of substantial justice in India, that the remedy for them would be a compensation for the inconvenience incurred by sending them to England. One advantage which is frequently insisted upon, as derived from appeals to England is, that the attention of Englishmen is thereby called to Indian subjects, more fully and more closely than it would otherwise be: first of all, I think the attention of Englishmen is but little turned to the litigations before the Council; I hope that better means will be found of drawing attention in England to the government of India; and at all events, discussions in England must rather operate as a check upon the general proceedings of government, than as a security against mis-decision in the courts of law.

1066. Then is it your impression, that no appeal should be allowed from India to this country?—I think none should be allowed: I think if you make the courts there as good as you can make them, appeals to England will be attended with more evil than good.

1067. Have you attended to the subject, whether Europeans whom we employ to administer justice in India, should be educated for that purpose, or whether government should trust to their being sufficiently qualified; whether or not provision should be made for their education?—I think an appropriate education for that portion of the servants of the Company, who are destined for the business of judicature in India, has not been sufficiently provided for. Anything that approaches to the nature of education for judges, as the subject is contemplated by me, has not, if I am rightly informed, had place at all. The College at Haileybury has chiefly had in view, as it ought, the business of general education; that the young men sent out might be well educated gentlemen; the object undoubtedly of primary importance. But what has been provided for legal instruction appears to me not to have been very well devised. What I mean is, that it is not directed to what should be the main object of it. The original design of the law-class at Haileybury was that of a class of English law, to which character, I believe, it pretty closely adhered till the time of Sir James Mackintosh, who took a wider range, but gave his instruction an historical rather than a legal cast, dwelling more upon the history of the English constitution than the history of English law, though even that would not have been to the purpose. The present professor, if I may judge by a list I have seen of questions propounded to his pupils, though he has not followed the course of his predecessors, is not much less wide of what I, perhaps erroneously, regard as the proper mark. His questions, for the most part, if what I have seen may be considered a fair specimen, bear on abstract points of moral philosophy and law, and however instructive in themselves, are not so appropriate for young men going to India to settle, pretty much in the way of arbitration, the disputes of the natives, as it would be to show them how the dictates of right reason are to be applied in so peculiar and so important a scene of action.

1068. Considering that the law-class of Haileybury is but one out of many to which all young men are obliged to pay attention, would it be possible in the course of two years, which comprises the whole time of their education, to instruct

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them to any great extent in the judicial duties which they may have to perform?—I should think not, attending as they do to the other parts of their education at the same time. After all, as the business of judges in India partakes so much of the nature of arbitration, with little guidance from law or established practice, at present, good sense is the best conductor, and the best preparation in the way of education is probably that which is best calculated to give a clear and discriminating mind. If a man has that he soon finds for himself the practical rules applicable to his situation.

1069. Would it be possible or advisable to have any system in India for preparing those who are to exercise the judicial functions; adverting to the circumstance, that if you establish a formal course of education in England, the rule must be, that the writers should choose the particular line of employment in India before they leave this country?—There is undoubtedly a difficulty in this, that those whom you educate carefully for the judicial line should be appointed to it; but the exigencies of the service and the distribution to be made of the existing agents, can be well understood only in India. But there is also a difficulty on the other side. It is only in England that the best teachers are to be had; and it would not be easy to obtain teachers with high qualifications in India. There would be one advantage in having the information bearing on the duties of judges communicated in India; that it would be given at a more advanced period of life, when it is more likely to be well understood and profited by than at the early age at which it would be given in England, where on the greater number it would not make a very deep impression.

1070. Upon the supposition that the writers, or such of them as showed a turn for that, were in this country to receive a course of instruction in the general principles and practice of law, without supposing them to enter minutely into political or local law, would they not be better fitted for most of the employments that would fall to them in India by reason of their having received legal instruction?—Undoubtedly; the instruction which would be useful, peculiar to those who are to exercise the judicial functions in India, would be useful in regard to every other function they would be called upon to discharge; a great deal indeed of what is done by the collectors of revenue is hardly less a judicial function than trying causes.

1071. Should you think the qualifications in this country would be equally attained by providing a system of instruction which the persons in question would be obliged to go through, or by establishing a test which they should be obliged to answer?—My opinion is, that the best mode of securing the qualifications we desire, would be to leave the young men to acquire them where it best suited them, and to establish a test: but I am inclined to make an exception with respect to legal education, because there is no opportunity in England of obtaining it, at least in that form which is appropriate to India. If, therefore, I trusted to the test in all other respects, I should be disposed, if it could be done, to make appropriate provision for instruction on the subject of law and its administration generally, as well as the peculiarities of both in India.

1072. Would it not be consistent with your last answer that a test should be established and should be rigidly enforced, and that an appropriate system of education should be approved of, which would be always resorted to if it was found to be the best means of qualifying for the test?—I think that none but good effects could be expected to flow from such an arrangement.

Lunæ, 2° die Julii, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

William Empson, Esq. called in; and Examined.

IV. JUDICIAL.

William Empson, Esq. 2 July 1832.

1073. WHAT situation do you hold?—I am Professor of Law at Haileybury College.

1074. How long have you held your present situation?—I succeeded Sir James Mackintosh, I think in 1824.

1075. What number of lectures do you give?—The College consists of students classed in four successive terms of half a year each. During his first term the student

student was not expected to attend law lectures; but in consequence of our diminished numbers, I at present lecture the students of the first term together with those of the second. They attend only one hour a week every Wednesday; the students of the third and fourth terms attend two hours a week; that is, one hour on Wednesday and one hour on Thursday. As the general examinations, &c. leave about seven months in the year for lectures, a student who remains the entire two years at the College receives, in three terms, from 70 to 80 hours of law instruction; during the four terms, about 90 hours, according to my present arrangement.

1076. Is it in the nature of your lectures to prescribe any reading to the students who attend them, or from time to time to examine them as to the progress they have made in the subject on which you have been lecturing?—Observing the extreme state of ignorance on the part of young men of 16 or 17 upon these subjects, I have found it expedient to introduce them gradually to what might be called strict law. The same cause has rendered it desirable to take certain text-books, which, as containing the body or raw material of the lectures, they may afterwards go over by themselves. The advantage of collateral private reading is limited by the shortness of the time, and by the difficulty of putting into the hands of the students any great variety of books of reference. I have varied my courses occasionally, for obvious reasons; but my object has been to give every student an opportunity of obtaining just principles, and elemental knowledge on the limits between morals and law in the case of the chief political and civil rights; on the criminal law, English and Mahomedan; and on the law of evidence. With this view my usual text-book for the first and second terms has been the principal chapters of Paley's Moral Philosophy, with the corresponding chapters in Blackstone. By this means I have constituted a parallel line of observation between the nature and extent of moral duties and legal duties: as, for instance, the moral obligation of government and the legal obligation of government; the moral obligation of property, promises, &c., and the legal obligation of property; of different sorts of contract, &c.; the moral obligation arising from the different public and private relations, and the legal obligation arising from the same, pointing out the difference and the reason of the difference. For the third term my principal text-books have been Lord Kames' Essay on Criminal Law, Dumont on Rewards and Punishments, the last volume of Blackstone, Russel and Archbold, and so much of Harrington's Analysis of the Bengal Regulation as relates to the Mahomedan criminal law and the Regulations of the Governor and Council. For the fourth or last term my text-books have been Dumont's Book upon Evidence, Stephen upon Pleading, and the first volume of Phillips's Treatise of English Law upon Evidence, with the chapters upon testimony in the Mahomedan and the Hindoo law. The above I consider my usual course. In order to vary the subjects, I have lectured occasionally on the English forms of action, with Selwyn's Nisi Prius as a text-book, on Sir Thomas Strange's Hindoo law; and, for the first time, gave the two senior classes, this last half year, lectures on Pothier upon Obligations, and the two junior classes lectures in Domat's Civil Law, relating to succession and inheritance. Respecting the most useful course of lectures, I have inquired frequently of the civilians returned from India what was the best method which they thought I could pursue. I have usually, on their leaving College, requested of the students, who have paid most attention to law, that if, on their arrival in India, they could suggest to me any improvement in my lectures, I should be extremely obliged to them for any communications which they should make to me. It is next to impossible to make lectures upon law popular with the great body of young men. I have from time to time conversed with some of the students themselves upon the subject, in order to ascertain whether any and what alteration in my subjects or mode of lecturing might obtain a greater degree of successful attention throughout my classes.

1077. In consequence of the intimation you have stated yourself to have given to the students that were leaving college, that you would be glad to receive from them any suggestions as to your lectures, have you, in fact, received suggestions from any of them afterwards?—One letter only occurs to me at present, in which not so much suggestion of alteration was made as strong expressions on the importance of the law lectures, and the advantage which had been derived from them, and the daily regret on the part of the writer, that although he was second in my law class, he had not given a greater, and indeed, his principal attention to it. In answer to the latter part of the last question, I ought to mention, that at the end of every month I sometimes ask a few questions, sometimes here and there, upon the subject of the month's lectures. The feeling that the time given for instruction

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is so short, and my desire to get over more ground, have induced me not to do so as regularly as, upon the whole, would, I believe, have been desirable. At the end of each month I report the progress (according to the rules of the college) which I conceive to have been made in law. My monthly report is more conjectural than positive; a guess given from the incidental answers, from the apparent attention, the regularity of attendance, &c. The real examination is at the end of every term. That consists of a *vivâ voce* examination upon the body of the lectures, and of written answers to a paper of printed questions; the one enabling me to check the other. At the end of every lecture I give out a set of questions, the answers to which will be contained either in the lectures themselves, or in the books referred to. The examination at the end of the term is made up principally of a selection of some of the principal points in the previous papers of weekly questions, modified and enlarged.

1078. When you state the number of hours given, you mean the number of hours occupied by attendance in the lecture room; but in order to obtain a proficiency, is it not necessary for that student to take a great deal of time privately upon the subject of them?—The test of *mere proficiency*, as rated at the point, somewhere about which, I understood, it was the intention that it should be left, is sadly low. I should think that a young man of ordinary abilities paying ordinary attention during the lectures, would afterwards soon get up his own note-book, or that of others, sufficiently to attain that test. Considerable more is required for what we call *good* proficiency, and a great deal more for *great*.

1079. Is the time, upon the whole, occupied by the subject of law at Haileybury as great as you believe to be possible, consistent with the attention to other subjects required by the system established at the College?—The students have, within certain limits, an option left them. There are four European departments. A student is allowed to keep his term, unless he fails in more than two of these, whilst the Oriental languages are considered indispensable. The consequence is, that except a student goes out of his way to give law a preference of partiality, against which the other professors are to a certain degree upon their guard, each endeavouring to protect his own department, it is, after all, a very limited amount of law, first principles, and the general bearings, which alone even a good student can possibly acquire.

1080. Consistently with the general system established there, could that portion, on an average, allotted to them be much increased?—Certainly not; the clever and industrious have their hands full, and more than full. Upon a voluntary system like ours, the idle and the stupid will never be brought to give law a preference over the other subjects; it can only hope to get its share.

1081. Are there lectures most days of the week at the College?—Every day in the week except Sunday.

1082. Upon what principle do you frame the questions put to the students at the regular examinations?—The questions, of course, depend on the lectures. The first object in lectures must be, to create in those who attend them some interest in the subject. I consider the lectures, therefore, of the first and second term as introductory and comparatively popular; the subsequent lectures on criminal law and on evidence go more into detail. Lectures may have made a considerable and a useful impression, and the questions upon them may be judiciously prepared, yet after all, it will be but a very small part of what has been learnt which the regular examination can bring out. It is more difficult to give really efficient lectures on law to young men of 17, who have no previous knowledge or interest in the subject, than those who have not attempted it are perhaps aware of. A lecturer is driven to a compromise, and the time of compromise is one of great nicety. If he is minute and technical, young men just come from school cannot follow him; on the other hand, generalities soon become vague and lose the strictness which constitutes law. The questions at the examination fairly represent the heads of instruction which has been put within the reach of the students during the time. Those who have worked hard can show the respective degrees of progress which they have made, and room is left for nobody to complain that he has not had an opportunity afforded him of answering whatever fraction of the lectures he supposes himself to have got up. Criminal law and the law of evidence have been represented to me to be the great practical courses of instruction for actual service; I consequently have passed the two senior terms through them in succession, drawing the attention of the students in the lectures upon the latter subject to the necessity of the method of bringing out clearly in the pleadings the point in issue, and of strictly watching

the evidence so as to confine it to the point in issue, with observations upon the credibility of the witnesses, and on the different questions arising out of documentary evidence, with the object of enabling them to apply the principles to cases that may arise. The knowledge and the habit of mind calculated to form a magisterial judgment on these matters is more within the scope of the required and indeed of possible instruction than the talent of conducting a cross-examination. In criminal law I have occasionally explained several of the trials in Phillips's Abridgment of the State Trials, and in the adjudged cases of the Nizamut Adawlut, in order to show the course and the points in which criminal questions practically arise. Considering the extreme technicality of the English law, and also the extreme difficulty of finding what the Hindoo law really is anywhere, and especially in different parts of India; considering, further, the declared impossibility, according to the testimony of the most eminent men in India, that the oldest civilian can sift and adjudicate upon the credibility of native testimony; the more that I have thought of it, the less practicable has the attempt appeared to me to be of usefully labouring in that direction.

1083. Do you think without allowing much more time to the study of law at the College, it would be possible to adapt the instruction given to the young men more closely for the functions which, in case they adopt the judicial line, they will have to exercise in India?—Certainly not; I am quite positive there is not a chance of it. The nature of the case must be kept in view; what it is which has to be taught; the probable qualifications of any attainable teacher; the probable description of person to be taught under a system of patronage, we must remember, and make a proper allowance for the average abilities and industry which a young writer will bring to a lecture room. Under these circumstances, and in so very limited a period as that which is now assigned to law, nothing is left but a choice of the portion of law which can be received. You must give what the student is apable of receiving, and what he is likely to remember. Some time will elapse before he is called upon to apply the instruction; it is, therefore, in choosing the portion, prudent to select principles, both of civil and criminal law, and of evidence of universal application rather than matters of detail.

1084. Have you had any means of knowing how far the legal instruction given at Haileybury has been of benefit in the administration of justice in India?—Not further than a letter or two, and hearing incidental expressions of satisfaction at the attention which some particular student may have given to the law department. If I may add to this question, I would observe, that with respect to the species of instruction to be given by a law professor in England, the state in which the Mahomedan and Hindoo law are left, as far as they are accessible to an English reader, makes it, I think, impossible for a discreet teacher to introduce more Mahomedan and Hindoo law than I have endeavoured to introduce. If legal instruction is to commence with the general principles out of which the different branches of the civil and criminal law are derived, this description of teacher will probably be less readily found in India than in England.

1085. Have you considered whether it would, on the whole, be expedient, supposing the system of sending writers from this country to India, that the writers should previously to their departure select the line in which they are to be employed in India?—I should think certainly.

1086. Or is it better that they should go out with a measure of general qualification, but without any determined department, without having pitched upon the very department in which they are to be attached?—For all other appointments except judicial ones I should conceive that the same general education might apply, and that no necessity for choice would arise. It is quite otherwise in the judicial. It seems to me impossible that a person who has thought seriously what are the duties of a magistrate can have a doubt but that a degree of preliminary information, the habit of considering such subjects, and at least an acquired preference for them, should be formed, before the person is called upon to act, or is put in circumstances where it is impossible for him afterwards to form the character and acquire the knowledge but at the most serious risks. The law is not *prima facie* an attractive study. Some little pains must be taken to lead a person forward, to give him a turn for it, and put him in the way of ascertaining what the difficulties are, and where they lie. Great difficulties must accompany the administration of every thing which can be called law. This is especially true of a system like the Hindoo, where it is often most embarrassing to distinguish between what is merely moral advice, and what is really meant to be positive and binding law.

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1087. Your answer would rather lead to the inference that, in your opinion, the existing system does not make adequate provision for the legal qualifications which are required for the Company's service in India?—I cannot express myself on that point too strongly. I can say truly that I have trembled whenever I have sent out a class, and considered that they were to administer law in India.

1088. On the supposition, then, that there was a greater facility afforded to Europeans to go out to India, and to the Europeans there to attain situations in the Indian service, should you conceive that it still might be expedient to provide legal instruction in this country?—I should think it a scandal in a government which, knowing the difficulties that attend the forming a judicial mind, and acquiring legal knowledge under favourable circumstances, should nevertheless venture to leave its judicial offices to the hazard of finding such men growing on the spot. Whether the instruction should be given here or in India, is one question; that instruction should be given somewhere, is another. Of the necessity of this, in the present state of the Europeans in India, and until a change has taken place in this respect much beyond what I can conceive the free admission of Europeans into India could for a long time possibly produce, I should have thought that there could be no difference of opinion. If Hindoo justice is to be administered *arbitrio boni viri*, it is true that no particular instruction in law will be then wanted; but if it is to be law, as a science and a rule, there are all the difficulties which exist in England, and many more. Unless some provision is made for forming lawyers and judges, to expect that they will go there, and be found by accident as they are wanted, seems to me to be one of the very remote contingencies to which no government ought to trust on so important a subject.

1089. You would of course make exceptions?—Of course there may be exceptions now; more exceptions may arise. I speak with reference to the present state, or nearly the present state, of the service, and to the nature and qualifications of the class of Europeans in India. It will be time enough to enter into the question which a change of circumstances, it is true, may occasion, when it has in fact arisen. As soon as there are men competently qualified to choose out of on the spot, it will be absurd to go to the charge of manufacturing and importing them from England expressly for the purpose.

1090. Can you suggest any improvements in the legal education?—If instruction is to be given, and given in England, of course no comparison can be made between the progress which would be made by students taken on an average, and a student chosen upon a principle of selection. Even with that advantage, and still more in the want of it, it is most desirable that they should be a year or two older, and that a considerably greater portion of time should be allotted to instruction in law. Oriental law has to be put into solid and accessible shape as law. There is nothing in the Hindoo law, and not much in the Mahomedan, which a professor can teach with any comfort, at least as far as I am acquainted with it. If I am asked, on the supposition that the qualities and the age of the student, and that the time given to law remain the same, whether law might not be better learnt elsewhere than it is learnt on the system of the College at Haileybury, I should say that the students in law partake of the advantages and disadvantages of that system. I have always thought that for students of ability and industry it is impossible to improve upon the Haileybury system. For the average, it is itself an average establishment, gaining over some characters what it loses in others. For the idle and profligate, our system appeals to no motive to which they are sensible. The only advantage which Haileybury offers in the instance of a young man of that caste is, the chance that in an extreme case he may be stopped, and lose his appointment altogether. Looking, however, at the course of the same description of persons in our public schools and universities, I apprehend that what is most obnoxious at Haileybury is not so characteristic of Haileybury, either in kind or in degree, as might be expected under our voluntary system. At no place whatever, and under no possible system would it be possible to form legal knowledge or a judicial frame of mind in such individuals.

1091. Are you aware of any seminary in which there is now any course of legal instructions which would qualify young writers for judicial situations in India?—The only law lectures with which I am acquainted that could at all answer the purpose required, according to my view of that purpose, are those given by Mr. Amos at the London University. At Oxford and Cambridge there is nothing of the sort. But Mr. Amos's lectures are principally directed for young men in pleader's offices, or who are destined for attornies. The specific objects consequently

quently of those lectures, and the appropriate object of instruction in the case of young men about to fill judicial situations in India are so distinct, that it seems to be impossible to at all satisfactorily combine them.

1092. Would it not be possible by the establishment of a test of legal qualification for persons going out to India, with a view to the judicial line, to secure a competent measure of qualification?—I see no difficulty whatever, except that the person who is to give the test must be supported by public opinion in the exercise of it in a very different manner from that of which the professors at Haileybury unfortunately found that they had the protection. For instance, I would draw out a syllabus on the subjects in which the young men were expected to qualify themselves; I would point out the source from which the knowledge was to be obtained. Suppose them to come at the end of 12 months or of two years in order to be examined in the different subjects, with full authority to the examiner or examiners to stop them in case they had not obtained a requisite amount of knowledge, I certainly see no difficulty whatever in the case. The terror of the loss of their appointment acting upon them would be a sufficient stimulus to make the great proportion acquire the knowledge, although they were not living under the instruction of a particular teacher.

1093. If an opening were made by which the ascertained qualifications of young men should be itself the passport to India, would or not that security be a better qualification than the system where the young men are first elected?—Certainly; for this is at once a principle of selection. At the same time the deficiency which I have felt at Haileybury has not been that the best students have not paid as much attention and made as much progress as almost a principle of selection could have secured to their respective departments, law amongst the rest. I have been surprised often at their merit. Our misfortune has been that we have had no inducement to bring to bear on the inferior order of students. It is a notion which I early took up, and which I have once or twice suggested, that the only way to meet this difficulty is to give the professors a liberal power of distinguishing in minor cases of demerit. What is wanted is some form of secondary punishment. After all, the evil to be apprehended is, not that they would exercise the powers too hastily, but too slowly. My notion was, that a certain proportion of the students who were at the bottom of their term should not keep their civilian appointment, but that they should drop down as of course to some inferior situation in the service. This would give us a hold on the inferior portion of a term, over which at present we have no hold whatever. They drive as near as they can. Such a power would enable us to whip up the lagging portion of a term. Suppose that sort of power to be withheld us, the advantage of a general certificate over our actual system would tell, in case it were high enough, by securing the exclusion of that portion which we have been obliged to allow to pass. None would be sent out so bad as some which we send out at present. Unless, however, the law students are older, and have more time than at present, I do not expect the improvement will be so great in the qualifications of the most distinguished, as, before my experience, I should have assumed as certain. I conceive that no certificate could reasonably be put higher than the point which the best students at Haileybury have attained in the law department.

1094. Is there anything in the present system which makes it obligatory on the professors to send out young men who, in their opinion, are not qualified to go?—I should say, certainly there has been felt to be in the College a moral obligation of that description. I have unfortunately, much to my suffering, acted upon it. When I came to the College it would have been very misplaced in me to act on crude notions of my own; I talked with the professors of long standing, to get, as it were, a map of the country. Their account to me was, "We have been for 20 years raising the standard in the College, both in respect of conduct and attainment. We have now got it to a point which, if not answering entirely to our wishes, is nevertheless, on comparing it with what it was in the beginning, highly satisfactory. You must not expect too much; you must consider the difficulties of the case, and recollect what is expected from the young men in other departments as well as your own. The system is one of qualified patronage. The unfitness which is to disqualify must not be tried by a severe scale. The College is not understood to have been founded for the purpose of exclusion but in extreme cases. In all our exercises of this authority, when a discussion has arisen between us and the parties concerned, the public has taken this view of it, and sided with the individual whose appointment was endangered. Your predecessor observed, that the College on these occasions had

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had every thing against it except justice." Consequently, I adopted and maintained as a minimum, as near as I could, the common standard. The dilemma in which the College is placed is one of great hardship. If we exercise the power which we ought to exercise on the part of the public, a storm of indignation is let loose upon the College, such as no other place of education ever was exposed to, and which must have a mischievous effect. Out of doors every body takes up the cry. Our only support is in the individual directors who happen to know the merits of the case. In case we do not exercise the power, and young men imperfectly qualified go out, remonstrances come home from India, that the College does not answer its purpose. It would certainly limit the patronage considerably. But I have always thought that our standard was as a minimum much too low. I know of no remedy of the present system except that the professors should be entrusted with a very considerable discretion in raising it; without such an understanding, I certainly do not expect that any professor (myself for instance) can calculate upon very much improving his own department.

1095. Do you mean to say that the general opinion and feeling of persons connected with the present Indian system are such that the professors cannot effectually exercise that power of selection which by theory you possess?—I certainly say so. Their experience unfortunately convinces them of it.

1096. In what way?—By finding the extreme unpopularity, the extreme odium to which they were subject; the cry that was set up over London, and the apparently worse than indifference of the public; every body joining in the observation, it is extremely hard that young men should lose their appointments for indiscretion, for idleness of a certain description; very hard that parents should be put to the necessity of the expense of an additional year's education, and so forth. One of the practical advantages in the management of the discipline, for instance, of the College which arose from the creation of the London Board, has been, that it enabled us more freely to send away young men who were just keeping within the verge of a positive statute or the like. In my own department I have constantly let young men pass who I think ought not to have passed, because I understood that the average had been raised, and raised, and raised much above what it had been formerly, and that we had got it as high as the parties to the contract at the establishment of the College, both the Company and the public, either meant or would consent that it should stand. I therefore have all along felt that I had no business to put my department higher, and exact for the law class terms which my colleagues did not exact; I was to take my place with the rest. The public cannot complain that the College has deceived them, by affecting to be a higher security than it has known itself to be. When cases of misconduct were stated and brought before them, the College was almost overturned by the tumult and irritation which was raised (this was before my connection with it), because the professors had done their duty. There is a letter of Sir Thomas Munro's, printed in his works, in which he observes, that he agrees with his correspondent on the extreme hardship of young men losing their appointments for the idleness and errors of youth, since they may afterwards turn out very valuable public servants. I remember observing upon the letter that it was a greater hardship upon the young men and their preceptors, that parents and governors of presidencies should join in a moral destructive to all education and discipline whatever. I do not see how the managers of a place of education are to support it against the observations of a man of Sir Thomas Munro's qualifications. If we are to be of any use, it is as a check; if we do at last take issue with young men on a certain degree, either of stupidity or idleness or vice, and give them notice that that appointment must be the forfeit, and governors of presidencies interpose with the plea of hardship, the possibility of latent qualities and final reformation, no establishment can answer the objects of moral and intellectual instruction which such establishments, whether at Hayleybury or elsewhere, are ordinarily expected to answer.

1097. In point of fact, are you able conscientiously to say, that the standard of qualification (I put this as a general question), are you able conscientiously to say, that the standard of qualification at Haileybury has been raised as high as, considering the difficulties with which you have stated the institution to have contended, was practicable?—It is my decided impression and understanding that this is the fact. In making these observations, I ought to add, that my connection with the College is somewhat looser than that of my colleagues, as being a non-resident professor. During the greater part of the year I only go down to give my lectures. It is my rule, therefore, in questions connected with the system, to a very considerable

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able extent to put myself in the hands of persons of great experience and character, who have been in the institution from its foundation, and upon whose judgment and upon whose integrity I can most confidently rely.

1098. Should you not conceive, that the complete loss of an appointment might in some degree be obviated by the plan to which you refer, by letting it fall to something inferior, but not a complete loss in the service?—The loss might be partial instead of total. Many a young man might make a very good soldier who would make a very bad lawyer, a very bad judge.

1099. Do you know whether the Board of Examiners has been as successful in qualifying young men for different situations in India as Haileybury?—I should think decidedly not. From what I have heard upon that point incidentally, I believe that the Examiners of the Board would give a very decided opinion to the same effect. There is no law standard, none in political economy; and the standard in classics, &c. for *passing* I have understood to be about the same as our standard for *admission*. We may have passed at Haileybury young men who, on the whole, are likely to make as indifferent civil servants as any who have been passed at the Board. But I cannot think it possible that the effect of successful education should so far go for nothing, that, after the usual allowance has been made for extraordinary exceptions, the Board has with its lower test, and the other circumstances of the case, sent out, on the average, young men as good as our average, or has had anything like proportion corresponding to our best.

1100. If an examination for legal qualification were established, and there were perfectly free admissions of candidates to contend under that examination for the appointment of a writer, do you think that any great improvement would take place in the qualification of those going out to India?—Of course that must depend upon the amount of legal knowledge required in the certificate, and the freedom with which the examiners are encouraged, or at least supported, in the exercise of it. Compared with the present result, I think (other things remaining the same) that it would probably act much more by raising the standard of the lower three-fifths, than of raising the standard of the two-fifths at the top. You would probably have no such bad men pass as pass at present; but you must not expect more, unless the age is altered, or unless the legal department is put on an entirely different footing from what it is at present, and disconnected from the certain amount of Oriental knowledge with which it is now bound up. As long as the Oriental knowledge is a condition to an appointment, and must be verified before the appointment is secure, persons who look to it must first take themselves out of the European market, and devote themselves at once to the East without reprieve; you would not find a great number of persons to do that as it were blindfold; there must be something more than a conjecture or probability of future appointment as an inducement.

1101. Do you mean to say that under the supposed system the best candidates would not be better than they are now unless they were older than they are now, but that the general qualifications would be much improved?—Certainly; the general qualifications might be expected to be much improved.

1102. Would it be possible to open the College at Haileybury so as to make it a general seminary of instruction?—That depends very much upon how far the education which is meant to be given for the Indian service is to be a special education, with reference to special objects. In an attempt to combine the two, the problem would be not to leave out of the preparation for the Indian service any thing which it ought to include of those things which can be taught to greater advantage in this country than in India, and yet preserve such a general system of education as a young man not going out to India would be likely to consider was better for general purposes than he could elsewhere acquire. I am afraid there would be a difficulty.

1103. Is there any special subject of instruction except the study of the Oriental languages?—No, none except the Oriental languages, and a sprinkling in my own department. The references to Oriental law take up less than a fourth of a term in the two senior classes, and little in the junior.

1104. But if it were a general seminary, and with more choice to the students to select departments for which they had a particular taste, or for which they were supposed by their friends to be particularly qualified, to the exclusion of other departments, would it not be possible to have a system of legal instruction, the greater part of which might be beneficial for persons not destined for India?—Certainly. My only fear would be this, that it would be in vain to expect that law, or the other branches of more common pursuits should be carried on to a suffi-

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cient extent and with sufficient rapidity. A deduction must be made for the Oriental departments. The Oriental professors calculate on two entire days out of the six; part of the other days are also given to Oriental learning; consequently the European professors have to draw up and wait as it were during that time; consequently students not following the Oriental department would rest on their oars those days, and it would be difficult to go on with them, and arrange for the Indian students to overtake them, or fall in.

1105. Would not that be a mere matter of arrangement?—There would be great difficulty in the arrangement. Besides, observe the age at which the students are required to come with whom the other young men would have to mix, and to whose capability, &c. of instruction, they must accommodate themselves. It is beyond their public school age; it is the age at which they are going to or would be at the University. We can expect few, unless those who came in order to give their whole time to law. Considering the great success of Mr. Amos, and the greater aptitude of his course for English practical purposes, few persons would come to Haileybury for law only.

1106. Do you conceive it essential to the education of civilians in this country that they should be taught the Oriental languages?—I can only answer from the conversation which I have had with Oriental professors and civilians: I should say, certainly not indispensable; at the same time it is desirable that they should have beforehand some grammar, and the elements of the Oriental languages, that they might not be detained so much longer at the Presidencies before they are fit to enter on the service.

1107. Is the Oriental language carried further at Haileybury than the point which you deem essential?—From the ability and zeal of the Oriental professors, I have no doubt that it is so. I am quite sure that they endeavour to make the most of their department.

1108. Do you think that the civilians should be older before they go out?—Certainly.

1109. Whereabouts would you fix the age?—I know of no reason why the judicial servants should go out younger than the medical servants of the Company. I have felt that one year additional was extremely important at that age. I have begged hard for it. It was considered, however, that a great deal had been conceded by averaging 16 as the minimum age; in point of law, and by throwing in generally one year more, in point of fact, the average age is 17. It is a great disadvantage, particularly in such a subject as law, to be obliged to lower the pace and keep down the quality of instruction under the point at which the kind of instruction which a lecture can give must be given most satisfactorily to all parties. Besides, the ordinary objections of the Haileybury system tell so much the more in proportion to the youth of the student.

1110. In what way do you conceive that an open system might best be made to secure the maximum of qualification, the greatest possible measure of qualification in a young man going out to India?—The qualifications you want are both moral and intellectual. Let an option (according to the vacancies) be given to the young men who have distinguished themselves at our public schools or universities, of those who have made the option, let a certain amount of knowledge in law, and, if you please, in political economy and the Oriental languages, be required, there can be no doubt but that, if the terms of the option are properly watched, a much higher degree of moral and intellectual education on the whole will be obtained than any system of patronage can secure.

Veneris, 6° *die Julii*, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

Sir *Alexander Johnston*, called in; and Examined.

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1111. HOW long were you in India, and what offices did you fill there?—I was sixteen years in office on Ceylon: during that time I held different situations of trust and responsibility under the Crown; for ten years I was Chief Justice, First Member of the High Court of Appeal, and President of His Majesty's Council.

1112. Were you ever on the continent of India; in what part, and for what time?—During the whole of the period I was in Ceylon I directed my attention very

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very much to a consideration of the nature of the government of the laws, and of the administration of justice in the peninsula of India; and with a view of becoming locally acquainted with the circumstances of the country and the character of the people, I made two journies by land from Cape Camorin to Madras and back again, the one in 1808 and the other in 1817.

1113. Had you any and what opportunities of personally observing or inquiring into the administration of justice in the peninsula of India?—I attended the proceedings of the different courts of justice, and I conversed upon the subject with several of the judges.

1114. Judges of the Company's courts?—Yes; and with the best informed of the natives of the country.

1115. It is understood that you were mainly instrumental in introducing into the administration of justice on Ceylon considerable alterations, especially as affecting the natives of that country?—As soon as I became Chief Justice, and First Member of His Majesty's Council, in 1806, I felt it to be my duty to state it officially as my opinion, that the surest way of retaining Ceylon and the rest of our Indian possessions was to admit the natives of the country to a share in the government of the country, and to allow them to administer justice to their countrymen. I also felt it to be my duty to state it officially as my opinion, that all laws by which they were to be governed ought, before they were passed, to be discussed and assented to by assemblies or councils in which all the interests of the different classes of natives were adequately represented. With this view of the subject, I advised the government of Ceylon to adopt various measures, and at the request of the Governor and Council I came to England in 1809, for the purpose of inducing the then Colonial Secretary of State to authorize those measures to be carried into effect. The late Marquis of Londonderry, who was then Colonial Secretary of State, entered fully into my views, and determined that all the measures I had advised should be carried into effect. However, his Lordship, in consequence of his sudden resignation of office in 1809, was only able to carry into effect before his resignation such of the measures as were necessary to introduce trial by jury amongst the natives of the country, to take off the restrictions which prevailed against Europeans holding lands and settling on Ceylon, to emancipate the Catholics in the island from the disabilities under which they had laboured for 150 years, and to encourage the gradual abolition of domestic slavery throughout the country; these four measures had formed part of a general plan which I had previously proposed to the late Mr. Fox for the improvement of the condition of the people of India. In the year 1802, when I was about to leave England the first time for Ceylon, I had various conversations on the subject of India with that gentleman, and in consequence of the request that he made to me at that time, I sent home to him in 1806 a paper containing some observations which I had drawn up on the alterations which I thought advisable in the administration of justice and in the government of the East India Company's possessions on the continent of India. This paper was given to him by a relative of his and mine in the year 1806, when he was at the head of the administration, and I received an intimation from him through the same relative, that he approved of all the measures which I had proposed. If the Committee wish, I will produce a copy of this paper. Twenty-six years' experience, and a constant attention to the affairs of India, convince me that the measures which I then suggested are the most efficient which can now be taken for securing permanently the British authority in India.

1116. Are there any and what accessible documents, showing the measures which in fact have been introduced into Ceylon by your means, and the results of them upon the interests of that island?—Yes, there is a paper which was drawn up by a friend of mine in 1826, which contains a very full statement of all the different circumstances connected with the introduction of trial by jury into Ceylon, and a copy of the letter which I wrote to Mr. Wynn in 1825, when he was President of the Board of Control, giving him an account of the reasons for which I had extended the right of sitting upon juries to the natives of that island, and of the effects which that measure had produced. It was upon this letter that Mr. Wynn, in 1826, introduced the Act for extending the right of sitting upon juries to the natives living within the local jurisdiction of the supreme courts of Bombay, Madras and Calcutta.

1117. Speaking both from the personal observation and inquiries which you have made respecting the administration of justice in the peninsula of India, and also from the attention you have subsequently bestowed upon the subject, have you

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any remarks or opinions to offer as to the judicial system there established, either with reference to its constitution or its practical effects?—The late Marquis of Londonderry having, after my last return from India, requested me to draw up for his use a statement of what I conceived might be an improvement in the system of administering justice in the peninsula of India, I gave him such a statement in 1822, and beg leave to refer to it. In it I confined my observations to the British territories under the presidency of Madras, having at that time been more acquainted with them than I was with those under the presidencies of Calcutta and Bombay. I, however, beg leave to add, that subsequent information leads me now to think that what I then proposed for the territories under the presidency of Madras is also, with certain local modifications, applicable to the territories under the presidencies of Bengal and Bombay.

1118. Have you any suggestions or improvements to offer which are not contained in that paper?—The paper which I sent to the late Mr. Fox in 1806, that which I gave to the late Marquis of Londonderry in 1822, and that which was drawn up by a friend of mine in 1826, contain a general view of the several measures which I think necessary for the improvement of British India. As the Committee have requested me to give them in evidence, I beg leave to refer to them, and to add, that my original plan was to try all the measures advised by me in the first instance on Ceylon, and if they succeeded in that island, then to introduce them into the continent of India. The principal objects of these measures, in as far as they relate to the administration of justice, is to frame a special code of laws for British India; to abolish the distinction which now prevails between King's and Company's courts; to introduce one uniform system for the administration of justice throughout British India; and to establish a supreme court at each of the three presidencies in India, and a high court of appeal in England for the purpose, under the vigilant superintendence of both Houses of Parliament, of constantly securing the efficiency of every part of that system.

1119. Do you advise that the half-castes should have the privileges of British born Europeans?—Yes.

1120. Do you mean that they should be admissible to the places now held by the Company's covenanted servants?—Yes.

1121. How would that interfere with the regulations of the Company's service, by which writers are appointed in this country to go out to India for the purpose of occupying situations there?—I mean that half-castes should be deemed eligible to writerships in this country in the same way in which European born British subjects are now eligible.

1122. On the supposition that Europeans were more extensively admitted to reside in India, would it or would it not be desirable that situations which are now held by the Company's civil servants should be opened promiscuously to European or half-caste residents in India?—I certainly think it highly advisable that Europeans who are established in India, though not in the civil service, should, if they be properly qualified, be eligible to any of those situations.

1123. Will you explain more fully the plan which you have suggested for uniting in one system the King's and Company's courts in India, and subjecting them all to the superintendence of the three King's courts at the presidencies?—As my view of the subject is explained in the papers to which I have already alluded, I beg leave, by way of saving the time of the Committee, to refer to them.

1124. Have you considered the comparative merits of the present system of judicature in India, and that of which you recommend the substitution in the article of expense?—I have considered it generally; I think the system I propose will not be so expensive as the present system.

1125. Are you able to state why it would be cheaper?—Yes; because, independent of other circumstances, a great part of the system proposed by me for the administration of justice will be carried on by native judges, who require smaller salaries than European judges.

1126. Would you recommend any systematic provision for the purpose of qualifying those who are to fill judicial situations under your plan?—I should recommend that all Europeans who are destined for judicial situations in India should receive in this country, previous to their going to India, a regular education adapted to the judicial situations which they are to fill.

1127. If a test of qualification were rigidly enforced, would that answer the purpose?—I think it would, provided the persons who are to apply that test are men who themselves have had judicial experience in India.

1128. Would

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1128. Would there not be a difficulty in finding means of qualifications, if the candidates were to be left to discover such means for themselves?—Yes; I should recommend the establishment of professorships for the purpose at one of the English universities, in the same way as professorships are established at Edinburgh, for the purpose of educating young men for the Scotch bar.

1129. Might not some use be made of the institution at Haileybury for the purpose in view, even supposing it to be discontinued in other respects?—Certainly.

1130. Will you state what is your opinion as to the merits of the proposition recently made from Bengal for the establishment of legislative councils in India?—I think that the formation of such councils in British India is highly advisable. I, however, think that a certain number of the most distinguished natives of the country ought to be admitted as members. I am convinced that the admission into them of native members is the surest way of rendering those councils efficient, popular, and beneficial to the natives of the country.

1131. Have you considered in what way such natives should be selected or appointed for the purpose in view?—At first, considering the novelty of the institution, it may be necessary for Government to select the native members. Measures should, however, I think be immediately taken by Government for forming an enlightened body of constituents amongst the natives of each province, and for calling upon them in future to elect the native members of council from their own body. In the eastern province of Ceylon the experiment of having a native council was first tried in the year 1783, by the then Dutch government. The great advantages which had been derived by that province from having such a council led me, in 1806, not only to propose its revival in that province under the British Government, but also to recommend that similar councils of natives should be formed in every one of the British provinces on Ceylon. I conceive that the natives of Bengal, Madras and Bombay are not only not less competent, but are, generally speaking, more competent for becoming members of such councils than the natives of Ceylon. The whole of India had been governed, for upwards of 2,000 years before the arrival amongst them of Europeans, by natives of the country, and had attained very great perfection in arts, literature, agriculture, manufacture and commerce; it is therefore to be inferred that the natives are just as competent as Europeans can be to legislate for their own wants and their own country.

1132. Considering that the form of the British Government now established in India is in so great a degree despotic, do you conceive that the natives are yet ripe for so great a change as should introduce them to the highest places of government?—The native population of British India consists, amongst others, of natives of high caste, high rank, great wealth, great talents, and great local influence, most of whom would, if a native instead of an European government prevailed in India, hold the highest offices in the state. I conceive that it is a great political object to attach such a class of natives to the British Government, and that the most certain way of doing so, is to declare them, even under the present system of government, to be eligible to some of the higher offices of state.

1133. How would their exercise of such authority comport with the maintenance of the British supremacy?—If they knew that the offices and the honours which they held depended upon the continuance of the British supremacy in India, they are more likely to support that supremacy with all their influence in the country, than if they felt, as they do at present, that they have no such offices and honours to lose by the overthrow of that supremacy.

1134. Would you then render natives eligible to the situations, or any of them, now held by the Company's covenanted servants?—I would render them eligible to all judicial, revenue and civil offices. Even now, by a recent regulation, they are appointed to fill very high judicial situations.

1135. By the regulation to which you refer, the natives being eligible to judicial situations for the decision of suits of the value of 5,000 rupees, do you see any reason why they should be limited to that value?—None whatever.

1136. Would not, however, the general admissibility of natives to the situations of the Company's service wholly break up the system of patronage by which those situations are now filled?—If it should be thought necessary to keep up this system of patronage, the situations to which natives are declared to be eligible may be limited, both as to their amount and as to their nature.

1137. Are you of opinion that the judges at the presidencies should be members of the legislative councils?—The judges of the supreme court in Ceylon are members of the King's Council on that island. The object in placing them in

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council is, that they may, from their knowledge of law, advise the Governor and Council upon all points of law connected with the different questions that come before the Council. In the same way the judges at Calcutta, Madras and Bombay, may be extremely useful as members of the councils at those presidencies. As the King's judges are independent of the local governments, they are likely to give those governments more independent advice upon subjects, in which the feelings of government are concerned, than persons who are dependant upon those governments for their promotion.

1138. You have spoken of "numbers" of the natives being members of the legislative councils; what in your opinion should be the number of counsellors?—Such a number of them as may induce the natives of the country to believe, that the interests of all the different classes of natives are fairly and adequately represented in those councils.

1139. Would you have the majority of the Council natives?—That I think must depend upon the nature of the powers with which these legislative councils may be ultimately vested.

[*The Witness was requested by the Committee to furnish the Committee with Copies of the Papers which he had tendered in the course of his examination.*]

Jovis, 9° die Julii, 1832.

THE RIGHT HON. ROBERT GRANT, IN THE CHAIR.

Sir *Alexander Johnston*, called in; and further Examined.

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1140. YOU have brought with you a Paper which you promised to the Committee last time?—Yes.

1141. And which you stated that you had communicated in the year 1806 to Mr. Charles Fox?—Yes; (A.) is a copy of the Paper which I sent to Mr. Fox from Ceylon in 1806; (B.) a copy of that which contains a detailed statement of all the different circumstances connected with the introduction of trial by jury and the abolition of domestic slavery on Ceylon; (C.) a copy of that which I gave to the late Marquis of Londonderry in 1822, and (D.) a copy of that which I gave to Mr. Wynn, then President of the Board of Control, and to some of the other members of the Privy Council in 1826, upon the subject of the appellate jurisdiction of the King in Council, in cases of appeal from the supreme and sudder adawlut courts in India.

See Paper (A.) See Paper (B.) See Paper (C.) See Paper (D.)

1142. On your former examination, you suggested that a general code of laws should be framed for India, which should be adapted to the different religions that prevail in that community; have you at all considered what means should practically be taken for framing and adopting such a code?—I should propose that the plan explained by me in (A.) should be adopted for that purpose. I followed with success a similar plan (*vide* E.) while in Ceylon, for collecting materials for framing a Hindoo and Mahomedan code for the use of the Hindoo and Mahomedan natives of that island; and I am of opinion that such a code as I have proposed for the use of British India in (A.) may be completed in the time I have mentioned in that Paper.

See Paper (E.)

1143. That is three years?—Yes.

1144. Have you any suggestions to add to those contained in your Paper, respecting appeals to the King in Council from India?—I have only to add, that measures ought immediately to be adopted for relieving all the parties to the appeals, which have been so long pending before the Privy Council, from the great expense and inconvenience to which they have been subjected by that delay. In order that the Committee may know what measures it may be advisable for them to adopt, I shall beg leave to explain to them the nature of those which have already been taken upon the subject. In 1809, the late Marquis of Londonderry, then Secretary of State for the Colonies, when he appointed the Chief Justice, First Member of the High Court of Appeal, and President of His Majesty's Council on Ceylon, being fully aware of the defects of the constitution of the Privy Council, considered as a court of appeal from the courts in India, and knowing that the offices which I held would enable me to become thoroughly acquainted with the subject, expressed a wish that I would give it, while on Ceylon, the most mature consideration, and when I returned from that island, report my opinion to him as to

the best mode of rendering the Privy Council an efficient and expeditious court of appeal for hearing cases in appeal from India. In order to enable myself to acquire all the necessary information, I, previous to my departure from England in 1811, with the assistance of the late Mr. Chalmers, then one of the clerks of the Council, examined the nature of all the proceedings which had taken place from the earliest period before the Privy Council, in cases of appeal, from all the British colonies, and made copies of the opinions which all the Crown lawyers and judges had at different periods given upon the question; and during my stay on Ceylon examined most attentively all the proceedings which took place in India in cases which were appealed from the three courts of sudder adawlut in that country, to the King in Council in England. In 1822, I, after my return from Ceylon, at the request of the late Marquis of Londonderry, gave his Lordship, as I have already mentioned, the Paper of which (C.) is a copy. As the Marquis died soon after, no steps were then taken for carrying into effect any of the measures which I had proposed in that Paper: one of them was the measure for calling in aid of the Privy Council, whilst sitting as a court of appeal in Indian cases, a certain number of the retired King's and Company's Indian judges. In 1825, on my attention being again directed to the subject, I found that in consequence of a variety of different circumstances, particularly of the ignorance of the natives of India as to the mode of prosecuting their appeals before the Privy Council, scarcely any appeals whatever from the courts of sudder adawlut, in which natives of India only were concerned, had been heard and decided by the Privy Council since the year 1799, and that nearly 50 cases, some of which were of great private and public importance, were in arrear, and had become a cause of great expense, great inconvenience and great dissatisfaction to all the natives of India who were in any way connected with them. In 1826, knowing, as I did, that it was the Marquis of Londonderry's intention, had he lived, to have advised His Majesty's Government to adopt the measure I had proposed relative to Indian appeals, I felt it to be my duty to call the attention of the Board of Control, and some of the members of the Privy Council, to the subject, and with that view drew up the Paper of which (D.) contains a copy, explaining to them the nature and extent of the appellate jurisdiction of the King in Council in cases connected with British India, and pointing out to them a mode by which the Privy Council itself might be rendered, without any additional expense to the public, a most efficient court of appeal for all Indian cases. In order to facilitate the proceedings of such a court, and to enable the Privy Council to decide without any further delay upon the cases which had been so long in arrear, I, in pursuance of the plan contained in the Paper (D.) suggested to the then President of the Board of Control the utility of employing Mr. Richard Clarke, a retired civil servant of the East India Company, well acquainted with the proceedings of the Company's courts in India, as a registrar for Indian appeals in this country, an office which will afford the Privy Council the means of acquiring without delay a thorough knowledge of the nature of all the different cases which may be appealed from India, and of deciding upon each case, if the parties require it, without putting the parties to the expense and delay of being heard by counsel. Mr. Clarke having, in consequence of my suggestion, been employed by the Board of Control in communication with the Court of Directors, and having completed an analysis of the several cases of appeal now in arrear, the present President of the Board of Control, with the most laudable anxiety to relieve the natives of India from the grievance which they have so long suffered, and to prevent for the future all unnecessary delay in the hearing of Indian appeals in this country, in March last, requested Sir E. Hyde East, the late Sir James Mackintosh and myself, to assist him with our advice upon the subject. The Paper (F.) contains copies of the letter which Mr. Grant wrote to me upon the occasion, of my answer, of the joint opinion of Sir E. Hyde East, Sir James Mackintosh and myself, of a letter which I subsequently wrote to Mr. Grant, and of a paper which I enclosed in that letter, explaining to him in detail all the different measures which I, after consulting with Mr. Clarke upon the subject, thought necessary to be adopted in India and in this country. These papers have, I understand, been forwarded by the President of the Board of Control to the Privy Council, and are now under their consideration.

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See Paper (C.)

See Paper (D.)

See Paper (D.)

See Paper (F.)

1145. It has been suggested to the Committee, that instead of allowing an appeal to the King in Council from India, there ought to be constituted in India a final court of appeal from all the different judicatures there established; what is your opinion of that suggestion, comparing it with the plan which you have recommended?—I think that the court of appeal, if established in England according to

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the plan I have proposed, will be a more competent, a more independent, a more popular, and a less expensive court of appeal than any which can be established in India. A more competent one, because it will be composed, which it could not if it were established in India, of the most efficient of the King's and Company's judges who have retired from the service, after having held for many years the highest King's and Company's judicial situations in India, and who must possess more judicial and local information than can be procured from any other persons relative to every part of India. A more independent one, because it will be composed, which it could not if it were established in India, of men who have retired from the service, and are independent in their circumstances, and who therefore can have nothing to fear or to hope either from the local government or from persons high in authority in India. A more popular one, because it will, from being connected with the Privy Council, and from being supported by an enlightened British public, be able, which it would not be if it were established in India, effectually to shield against every unjust and party attack those Indian judges who may feel it to be their duty, however detrimental to their local interest and to their comfort in society, to protect the natives of India against any description whatever of arbitrary exaction or oppression. A less expensive one, because it will be composed, which it could not be if it were established in India, of judges of talent and experience, who are to receive no pecuniary remuneration whatever as judges of the court of appeal. To avoid all unnecessary delay and all unnecessary expense, I should propose, if such a court be established in England, that a person thoroughly acquainted with the nature and proceedings of the King's and Company's courts in India be appointed registrar of the court in this country for Indian appeals. That all the appeals and all the papers connected with them be sent direct from the courts in India to this office. That it be the duty of this officer, as soon as he receives the papers in each case, to arrange them and make a report upon them to the court. That it be the duty of the court, after perusing the papers, to decide upon them without delay, hearing counsel or not in each case, as the parties interested in the case may require. If these rules be adopted, the result of every appeal to England may be known in India in 10 or 12 months from the date at which the appeal papers were originally forwarded from India to England, and the only objection, that of delay, which is urged with any weight against the court of appeal being established in England, will be effectually answered, and all grounds removed for depriving 80 millions of His Majesty's subjects in India of the right of appealing to the King in Council in England, which every British colony in every quarter of the globe has already possessed, which they themselves have enjoyed for the last 60 years, and which is of peculiar importance to them in the present times, when in consequence of the great progress which they are making in knowledge, and of the enlightened views which they are beginning to entertain upon all questions of law and government, they are more in want than ever of the protection of an independent court in England, whose proceedings will always be subject to the observations of an active press and both Houses of Parliament.

1146. Your answer seems to imply the continuance of the present system; in other respects how far would you modify your opinion, on the supposition that such a change was to take place as to introduce into India an extra number of European residents, to create a local public of greater influence and efficacy than now subsists in that country, and in other ways to supply both more materials for an appellate court and a more efficient control, by means of a public supervision over the proceedings of such court?—My opinion is certainly formed upon a consideration of the present state of society in India: many years must pass before it will be advisable for the natives of India to relinquish the right which they now enjoy of protecting themselves against injustice, by an appeal to the King in Council in England.

1147. Supposing a general code to be framed, what means would you recommend to secure a due application of it among the natives of India?—I should advise that it be translated into the most common languages of India, and that its nature be publicly explained to all the people of the country by public officers appointed for the purpose.

1148. Would it be necessary, in framing such a code, to consider very particularly the state of the different communities now in India, not being Europeans?—It will be necessary, in framing such a code, to consider mostcarefully the laws, usages and feelings of the natives of all the different castes and of all the different religious persuasions which prevail in India.

1149. How

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1149. How far are the Catholics in India recognized by the local government, or in connection with it?—As I have been recently engaged, as Chairman of the Committee of Correspondence of the Royal Asiatic Society of Literature, in collecing information relative to the state of all the Catholics in India, I have in the course of my inquiries received a very interesting letter upon the subject from the Abbé Dubois, a priest of the Catholic religion, who has been 31 years in India, and is thoroughly acquainted with the state of the Catholics in India: I beg leave, in answer to this question, to refer to the Paper (G.), which is a copy of that letter. See Paper (G.)

1150. Would it be expedient that any control should be used by Government over the ecclesiastical appointments among the Catholics in our dominions?—I think that, considering the number of the Catholics who are now in the British territories in India, some arrangement ought immediately to be made upon the subject, by the British Government and the Pope. I think it my duty to add, that the conduct of all the native Catholics who were within my jurisdiction while I was Chief Justice and President of His Majesty's Council in Ceylon, was such as to convince me, that whenever the Catholic natives in India are properly superintended, as they are in Ceylon by their priests, they will always form a most loyal and a most respectable class of His Majesty's subjects in that country. The number of native Catholics in Ceylon is upwards of 100,000, and in the course of the whole of my judicial career in that island I observed that fewer offences were committed by natives of that religious persuasion, than by natives of any other religious persuasion whatever on the island.

1151. Have you any suggestion to offer as to the expediency of having a maritime code for the use of the natives or Europeans navigating the Indian seas?—I beg leave, in answer to this question, to refer to the Paper (H.), which is a copy of the plan which I some years ago gave to the Admiralty, for framing a maritime code for the use of all the different natives of Asia who navigate the Indian seas, and who trade with the several British possessions in India. This plan was formed by me, upon the information which I had previously collected while I was Judge of the Vice-Admiralty Court on Ceylon, relative to all the maritime laws and usages which had prevailed at different times amongst the Chinese, Hindoos, Persians, Arabians, Malays and Maldiwan navigators and traders. I shall soon be able to obtain further information upon this subject, as I am engaged at present, as Chairman of the Committee of Correspondence of the Asiatic Society, in collecting from every part of Asia all the documents which can be procured relative to this description of law, for the use of Monsieur Pardessus, the celebrated French lawyer, who is about to publish a history of the maritime laws and usages of every quarter of the globe. See Paper (H.)

1152. Have you turned your thoughts to the subject of domestic slavery in India, and would you offer any suggestions on that subject?—I felt it to be my duty, from the time of my arrival on Ceylon, to adopt such a line of policy in my official capacity as would, I thought, inevitably in a short time put an end to the state of slavery in that island. Having, on my return from England in 1811, as Chief Justice and President of His Majesty's Council, brought out with me the Act of 1811, declaring the trading in slaves to be felony, and a commission authorizing myself and certain other commissioners to try all offences against that Act with a grand and petty jury, I caused the Act to be publicly promulged upon the island, and a case of importance having occurred in 1813, all the prisoners, one of t em a man well known throughout Arabia and Asia, were tried and convicted before me, which called the attention of the people to the nature of the offence, and prevented the commission of any more offences of that description. In consequence of the proceedings at this trial, and the remarks which I made upon the subject of slavery at all the criminal sessions, to the persons who were on the roll of jurymen, much interest was excited, and all the proprietors of domestic slaves, to the number of 763, natives as well as Europeans, came to a resolution in July 1816, declaring that all children born of their slaves after the 12th of August 1810, should be considered as born free, and thereby put an end to the state of domestic slavery which had prevailed in Ceylon for 300 years. The Paper, of which (I.) is a copy, contains the details of what took place on the occasion. I have, since my return to England, been engaged, as Chairman of the Committee of Correspondence of the Royal Asiatic Society, with the assistance of Mr. Baber, the late Judge on the Malabar coast, in collecting such information relative to the state of slavery in the peninsula of India as may enable the British Government to adopt on the continent of India the same policy relative to the state of slavery, as that which has been successful in Ceylon. See Paper (I.)

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Ceylon. The Committee of Correspondence of the Asiatic Society have already collected some very useful information upon the subject, from various quarters, particularly from the papers published by order of the House of Commons in 1826, and they soon expect to obtain much more from different parts of India.

1153. Have you any means of knowing the proportion of slaves to freemen in Ceylon?—At the time all the proprietors of slaves on the island of Ceylon came to the resolution which I have just mentioned, there were 763 proprietors, and, as I understood, between 9,000 and 10,000 slaves: the population of the then British territories on the island was about 600,000 people.

1154. Can you state whether any and what steps were taken in Ceylon during your residence there, for facilitating the holding of lands by Europeans?—Restrictions similar to those which prevail in the East India Company's possessions on the continent of India, were in force in the King's possessions in Ceylon up to 1810, against Europeans holding lands in perpetuity on the island. Believing that the best way of improving the island, and securing the affections of the natives, would be for His Majesty's Government to encourage, by all means in their power, the settlement of Europeans in every part of the country, and the introduction of European capital, European industry, and European arts and sciences, amongst the people, I advised the late Lord Londonderry, as soon as I arrived in England in 1809, to repeal all these restrictions, and to authorize the local government to grant lands, under the most favourable conditions, to any British Europeans who might be willing to settle upon the island. The restrictions were accordingly repealed in 1810. It was the intention of Lord Londonderry, on my advice, had he remained in office, to have followed up this measure by giving the island of Ceylon such a free constitution of government as would have suited the habits and feelings of British settlers. This intention, however, was, in consequence of his resignation, not carried into effect, and few or no Europeans have hitherto availed themselves of the offer of the government of Ceylon to give them grants of land. The Paper (K.) is the copy of a Paper which contains an account of all the circumstances connected with this subject.

See Paper (K.)

1155. Have you considered how far facilities may be afforded in India to the possession of land by Europeans, beyond those now afforded, and generally the settlement of Europeans in the interior of the country?—From all I have heard and read upon the subject, I think that the British Government ought to encourage British Europeans to settle in India, for the purpose of improving the country and increasing the influence and the authority of the government amongst all classes of the people.

1156. If the number of lower Europeans in the interior were much increased, then, supposing them admissible to offices and privileges which are not open to the native Indians, is there no danger that a jealousy would be created which might lead to injurious effects?—The Europeans who will be anxious to settle in the interior of India will, I should think, in general be persons of some capital, or some particular skill and talent; such persons, independent of any other motive, will endeavour, with a view to their own interest, to conduct themselves well, and to make themselves popular with the natives of the country. I do not conceive that their admission into such offices as their acquirements may qualify them to fill, can excite any peculiar degree of jealousy amongst the natives, or be productive of any injurious effects in the country.

1157. The supposition of the last question was, that such a number of Europeans residing in the country as to create a sort of caste or class distinct from the natives; supposing that class to be admissible to places under government, or to have privileges of any kind which are not open to the natives in common with them; the question then is, whether a sort of jealousy would not be produced in the mind of the natives at their own exclusion from the same advantages?—I conceive that all the natives of the country ought to be eligible to all judicial, revenue and civil situations whatever, and that if this were the case, no jealousy would be excited in the minds of the natives by the circumstance of an European, though not in the Company's service, being deemed eligible, if his conduct be good, to similar situations.

1158. Even supposing an intelligent European was not possessed of capital himself, would his superior skill not be useful in turning to account the capital of the natives?—I have no doubt whatever that it would often be of great advantage to the natives to have an European of skill and talent, though without capital, settle among them, because it is probable that by his skill and talent he would enable

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enable such of them as are engaged in agriculture or in manufactures to make many improvements, which may be of the greatest advantage to them in the pursuits in which they are engaged.

1159. In opening appointments to natives and Europeans generally, would you admit at the same time half-castes?—I should certainly advise the half-castes to be declared to be eligible to the same situations as Europeans and natives. While I was on Ceylon, I considered every half-caste, if properly qualified, to be eligible to every magisterial and other office under the supreme court. Some of the most respectable and the most efficient magistrates and officers of the supreme court were half-castes. My opinion as to the policy which ought to be pursued with respect to the half-castes in British India, is given at length in my answer to a letter which I received in May 1830 from Mr. Ricketts, the then agent of the half-castes in this country, of which (L.) is a copy. See Paper (L.)

1160. Are you acquainted with the Jury Bill which has just passed the House of Commons?—Yes, I am; I think that it will be attended with the best effects in India. The conciliatory manner in which the present President of the Board of Control has received the petition of the natives of India, and the readiness with which he has brought in a Bill to relieve them from some of the grievances of which they complain, will show them the attention which the present Board pays to their feelings, the respect which it entertains for their character, and the confidence with which it intrusts the lives, the liberty, and the property of their fellow-countrymen to their discretion and to their protection.

1161. Has experience shown that the introduction of jury trials in Ceylon has succeeded?—Yes; my own experience, that of my successors in office, and that of the King's Commissioner, Mr. Cameron, prove that it has completely succeeded. For an account of the result of my experience, I beg leave to refer to the Paper (B.); for that of my successors, to the following extract from Sir Harding Gifford's Charge; and for that of Mr. Cameron, to the following extract from that gentleman's Report: See Paper (B.)

EXTRACT from the Charge delivered by Sir Harding Gifford, the Chief Justice and First Member of H. M. Council in Ceylon in 1820, on his taking possession of his office, after the resignation of Sir Alexander Johnston.

"BUT there is one feature of the history of offences for the last two years so remarkable, that it cannot without injustice to the people be overlooked.

"It has been my duty to examine the criminal calendars of that period, with a view to inform myself of the state of offences generally; and I have been both surprised and gratified to observe, that during this interval, an interval marked by violence and convulsion in the interior, that there does not appear to have occurred in our maritime provinces a single instance of even a charge of turbulence, sedition, or treason, or of any offence bearing the slightest tinge of a political character. It is too well recorded, and is within the personal knowledge of some of yourselves, that during the Kandian War of 1803, the revolt of some of our maritime districts added in no slight degree to the difficulties of that melancholy period. To what are we to attribute so remarkable a change? Certainly not to the superior character of the government. In mildness and benevolence, Mr. North's administration was assuredly not exceeded by that of any of his successors. But, Gentlemen, let us ascribe it to the true causes; to the long and steady experience of the blessings of a government administered on British principles, and, above all, to the introduction of trial by jury.

"To this happy system, now (I may venture to say) deeply cherished in the affections of the people, and revered as much as any of their own oldest and dearest institutions, I do confidently ascribe this pleasing alteration; and it may be boldly asserted, that while it continues to be administered with firmness and integrity, the British Government will hold an interest in the hearts of its Cingalese subjects which the Portuguese and Dutch possessors of this island were never able to establish.

"It may appear, and with justice, that I indulge some degree of personal gratification in referring to this subject, when I tell you, that in a report made to the government of Ceylon in June 1817, by the Advocate Fiscal of that period, there is contained an observation which shows that this feeling is not new, and we know how fully it has been justified by subsequent events. In that document it is said, that 'amongst the inhabitants of the maritime provinces, I know the jury system to be already (this was in the seventh year of its operation) a favourite. The wisdom of the Supreme Court has most happily adapted it even to their prejudices, so that they had actually begun to feel attachment to it on that account, even before they were aware of all its advantages.'

"And the report adds, 'Armies may waste away from climate or disease, and seasons and circumstances may baffle the utmost exercise of human foresight; but, fixed on the attachment of the people to our jurisprudence, I look upon the security of the British interests in (the maritime provinces of) Ceylon to be impregnable.'

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" And can we, Gentlemen, with these pleasing results before us, omit to render our tribute of recollection to the learned Judges by whose zeal and ability this system has been put so happily into operation?

" Of one of them, holding, as he still does, that station in society so well merited by his talents and services, it would be difficult in me, without indelicacy, to offer more than that tribute which it would be injustice to withhold. To his perfect knowledge of the native habits and character, and his extensive acquaintance with their institutes, it was owing that the jury system was thus so skilfully adapted even to their prejudices, and so deeply rooted in their affections as to have had the consequence in which we now rejoice."*

EXTRACT from a Report of C. H. Cameron, Esq., one of His Majesty's Commissioners of Inquiry, to Lord Viscount Goderich, dated 31 January 1832.

" THE trial by jury, as your Lordship is aware, was introduced at the suggestion of Sir Alexander Johnston, by the charter of 1810. I attended nearly all the trials by jury which took place while I was in the island, and the impression on my mind is, that an institution in the nature of a jury is the best school in which the minds of the natives can be disciplined for the discharge of public duties. The juror performs his functions under the eye of an European judge, and of the European and Indian public, and in circumstances which almost exclude the possibility of bribery or intimidation. In such a situation he has very little motive to do wrong, and he yet feels and learns to appreciate the consciousness of rectitude. The importance which he justly attaches to the office renders it agreeable to him, and he not only pays great attention to the proceedings, but for the most part takes an active part in them."

1162. Are you aware of any reason why the system of jury trial which succeeded in Ceylon should not be equally successful in India?—I have for the last 20 years had frequent communications with persons from Madras, Bombay and Bengal upon this question. I have also read several documents containing the opinions of those who are competent to form a correct judgment upon the subject. These communications and documents leave no doubt in my mind of the applicability of jury trial to every part of the British possessions in India, provided it be so modified as to suit it to the customs and feelings of the people amongst whom it is introduced. The documents to which I allude, in as far as they relate to Madras, are the minutes of the late Sir Thomas Munro, and his letter to Lord Hastings upon the subject; the minutes of Mr. Graham, his successor in the government of Madras; the printed regulation passed by the Governor and Council of Madras for carrying into effect, after Sir Thomas Munro's death, his plan for the introduction of jury trials throughout the presidency of Madras; the evidence before the House of Lords of Mr. Baber, one of the most able and enlightened of the East India Company's judges. The documents to which I allude, in as far as they relate to Bombay, are the addresses presented by the principal natives of Bombay, upon the death of the late Chief Justice of that settlement, Sir Edward West, to the two surviving Judges of the Supreme Court at Bombay, and the petition signed by 4,000 of the most distinguished inhabitants of all castes and religious denominations at Bombay, and sent by them to the House of Commons about two years ago, in which, though I am not personally acquainted with any one of them, they do me the honour of alluding to me in the most flattering terms, merely from the circumstance of their conceiving me to be the first person who had ever extended by a charter of justice the right of sitting upon juries to the natives of India. The documents to which, independent of many others, I specifically allude, in as far as they relate to Bengal, are different parts of the evidence of Rajah Ramohun Roy before the Committee of the House of Commons. In corroboration of these documents, I can speak from personal knowledge as to the decided opinion which the late Sir Thomas Munro entertained in favour of the introduction of trial by jury amongst the natives of India, for I met him in 1817 on the peninsula of India, at his particular request, six years after I had introduced jury trial into Ceylon, for the express purpose of explaining to him the manner in which I had adapted that mode of trial to the customs and religious feelings of all the natives of all the different castes

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* "The Honourable Sir Alexander Johnston, the late Chief Justice and First Member of His Majesty's Council, at whose recommendation, and according to whose plan, the trial by jury was introduced into Ceylon, in November 1811, and the right of sitting upon juries, instead of being confined, as it is in other parts of India, to Europeans, was extended, under some modifications, to every native upon the island, the effects of which are to make the natives themselves participate in the administration of justice amongst their own countrymen."

castes and religious persuasions on that island, and the conclusions which I drew as to the moral and political effect which it was calculated to produce upon their character and conduct.

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1163. Can you conceive anything better adapted than the system of jury trial, to give the people of India that confidence in themselves, and prepare them for those free political institutions, which it must be the ultimate object of this country gradually to introduce?—I cannot conceive any system to be better adapted for that purpose in India than the system of trial by jury, provided it be so modified as to suit it to the feelings of the natives and the circumstances of the country: it gives the natives an additional value for education, for character, for public opinion; it makes them acquainted with the nature of their laws, and with the moral and political effect of their institutions; it exercises their minds in sifting and weighing the evidence of persons of every caste and of every religious persuasion; it accustoms them to decide, and declare their opinion in public; it gives them a confidence in their own talents, and in their own judgment; it makes them feel themselves to be the guardians of the lives, the liberties, and the property of their countrymen; it convinces them that they are treated with confidence and respect by their rulers; it excites in them an additional interest in every thing which relates to the administration of justice, and to the government of the country; it affords them a public opportunity of displaying their knowledge, their patriotism, and their talents upon subjects of the greatest interest, and must ultimately lead them, as it did all the jurymen on Ceylon who were proprietors of slaves, and who declared free all children born of their slaves after the 12th of August 1810, to show themselves worthy of the rights and privileges of freemen, by showing themselves ready, if necessary, to sacrifice their private interests to their respect for the cause of humanity and freedom.

1164. Does not the simple circumstance, that the facts in a criminal case must be brought before 12 individuals in the same situation as the prisoner, form a very great security for individual liberty, and so prepare the country in which it is introduced, for the exercise of political freedom also?—Yes; it places the liberty of every native of British India under the safeguard of his countrymen; it creates a native public to protect him against oppression; it encourages him to form and declare his opinions without fear or disguise, and it thus renders him capable of exercising political freedom with credit to himself and with benefit to his country.

PAPERS presented by Sir *Alexander Johnston*, and referred to in his Evidence of 6 and 9 July 1832.

(A.)

THE Paper sent by Sir Alexander Johnston, in 1806, from the Island of Ceylon to the late Mr. Charles Fox, then at the head of the Administration of Affairs in England, in consequence of Mr. Fox having requested Sir Alexander, when he left England in 1802, to send him, after his arrival on the Island, his opinion upon the different subjects to which the Paper alludes.

THE best policy which Great Britain can pursue in order to retain her possessions in India, is to raise the moral and political character of the natives, to give them a share in every department of the state, to introduce amongst them the arts, sciences and literature of Europe, and to secure to them, by a legislative act, a free constitution of government, adapted to the situation of the country and the manners of the people. With this view I propose,—

1st. That a general system of education founded upon this policy be established for the benefit of the natives in every part of the British territories in India.

2d. That the natives be declared eligible to all judicial, revenue and civil offices whatever.

3d. That all laws by which the natives are to be governed be, before they are adopted as law, publicly discussed and sanctioned by local assemblies or councils, in which the interests of every class of natives shall be adequately represented by natives of their own class.

4th. That the local governors be deprived of the power which they are now authorized to exercise at their own discretion of sending Europeans without trial out of the British territories in India, and that no European shall for the future be sent out of any of those territories on any charge, unless under a regular sentence of banishment passed against

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him by a regular court of justice, after a fair and public trial, and a conviction by a jury of some offence to which the law has attached the punishment of banishment from the British territories in India.

5th. That a law be passed affording the same protection against illegal imprisonment to every native and every European in the British territories in India as the Act called the Habeas Corpus Act affords to every person in England.

6th. That measures be immediately taken by all the governments in India for the gradual abolition of domestic and every other description of slavery which now prevails in different parts of British India.

7th. That it be declared illegal for any British government in India, or for any individual acting by its authority, to force a native, under any pretence whatsoever, to labour without pay or against his will.

8th. That it be declared illegal for any British Government in India to exclude any native from holding any office under the British Government in India on account of the nature of any religious creed which he may profess.

9th. That measures be immediately taken, by giving to each description of them an efficient and respectable ecclesiastical establishment, by enforcing a system of strict moral discipline amongst them, and by removing all motives of religious jealousy between them, for making every description of Christian, whether Catholic, Syrian, or Protestant, within the British territories in India, respectable in the eyes of the natives of the country.

10th. That measures be immediately taken for putting all the descendants of Europeans in British India, known at present by the very invidious denomination of half-castes, upon the same footing as European born British subjects in every respect as to education, laws, and eligibility to office, and thereby rendering every person descended from a European, whatever his complexion may be, provided his character be good, respectable in the eyes of the natives of the country.

11th. That all the restrictions which at present prevail against Europeans settling in any of the British territories in India be taken off; and that all British Europeans be not only permitted, but encouraged by the British Government in India to acquire and hold lands in perpetuity, and to settle in every part of the country, as the surest way of introducing the arts, the science, and the improvements of Europe amongst the natives, of increasing their wealth, their comforts, and their prosperity, of extending the influence of Europeans in the country, and of strengthening the British authority in India.

12th. That the press be considered and used as a powerful engine for forming an enlightened public amongst the natives of the country, for enabling the British Government to know the real sentiments of the people respecting all its measures, for preventing all public functionaries from abusing their power, and for protecting the Legislature in any improvements it may introduce against the prejudices of the ignorant and the intrigues of the disaffected.

13th. That the distinction which now prevails in British India between King's and Company's courts of justice be abolished, and that there be but one system of administering justice throughout British India.

14th. That there be a special code of law for British India, drawn up in the simplest language, divested of all technicalities, and adapted to the feelings and to the manners of the different descriptions of people, European as well as natives, who compose the population of the country.

15th. That this code consist of four parts,

1st. To contain the civil law applicable to Europeans.

2d. The civil law applicable to the native Hindoos.

3d. The civil law applicable to the native Mahomedans.

4th. The criminal law, applicable both to Europeans and natives, Hindoos as well as Mahomedans.

16th. That civil and criminal justice be administered to all the inhabitants of British India according to this code, by judges and assessors educated for the purpose, and by juries adapted, as to number, qualification, and every other circumstance, to the feelings of the people, and the local situation of the country.

17. That there be both European and native judges in British India: that all Europeans who intend to be judges in India, be educated for the specific purpose in England, and be publicly examined, and declared to be properly qualified for the situation by the High Court of Appeal in England, before they can be eligible to the situation of a European judge in British India; and that all natives of India be educated for the specific purpose in India, and be examined and declared to be properly qualified for the situation by the Supreme Court of the Presidency to which they may belong, before they can be eligible to the situation of a native judge in British India.

18th. That the criminal and civil jurisdiction of the European and native judges respectively, be carefully regulated with a view to the situation of the country, and the feelings of each class of the inhabitants.

19th. That in civil cases (subject always to the above consideration) the European judges do exercise only an appellate jurisdiction, and the native judges only an original jurisdiction.

20th. That every criminal prisoner, European and native, shall have a right to be tried by a jury for any criminal offence, not declared by law to be a minor offence, with which he may be charged.

21st. That to save the inhabitants of the country from all unnecessary inconvenience, every

every jurisdiction exercised by any judge, whether criminal or civil, original or appellate, be exercised in such a manner, either by circuits or otherwise, as may put the parties who are concerned, prisoners, suitors and witnesses, to as little expense and delay as possible, by bringing justice as near as possible to their respective homes. Sir *Alex. Johnston.* 9 July 1832.

22d. That to save suitors in civil cases from all unnecessary delay and expense, the number and the nature of the pleadings, copies of papers, &c. allowed by the courts, be as few as possible consistent with the attainment of jusitce; the parties to a suit have the option of proceeding in court either by themselves, or by an attorney or counsel, as they may think proper; and all tables of fees be framed by the local assemblies or councils, with a strict consideration of the circumstances of the people who are likely to have suits before the court.

23d. That to prevent the officers of the several courts from having an interest, or from appearing to have an interest, in the delay of justice, or in the accumulation of papers in a suit, all officers of court be paid by fixed salaries, be strictly prohibited from receiving any fees, or deriving any emolument whatever from the use of monies deposited in court; and be compelled to pay all fees of court, and all monies deposited in court, without the smallest delay, into the public treasury.

24th. That in order to prepare the natives of the country to exercise the duties of judges and jurymen, they be employed as frequently as possible as assessors to the European and native judges in the administration of civil and criminal justice.

25th. That in order to increase the respect of the natives for the office of a juryman, a list be made out of all the persons in each province who are qualified, according to a plan which shall be hereafter arranged, to act as jurymen; that this list be constantly exhibited in the most public places in the province; that it be revised every half year; that at each revisal, the names of all those who have been improperly omitted be added to the lists, and the names of all those whose conduct since they were put upon the list has disqualified them from the honour of being upon the list, be erased from it; the question in either case, as to whether the name of a person ought to be added or erased from the list, to be tried and decided by a jury.

26th. That in order to form an enlightened and independent public amongst the natives, a native reporter be attached to each court, who shall report all the cases which occur before the court; and that a native newspaper be established in each province for the purpose of publishing all the circumstances which are connected with these cases, and encouraging the natives of the country to discuss without fear the nature of the decisions which have been given by the judges of the respective courts.

27th. That all the different maritime customs and maritime usages of all the different natives of various parts of Asia who navigate the Indian seas, and who trade with the different ports belonging to the British territories in India, be carefully collected, and a maritime code prepared fromthem for the use of all the native mariners who trade with the British territories in India; and that courts, the proceedings of which shall be regulated by this code, be established at all the most convenient ports in British India.

28th. That there be a Supreme Court of Justice at each of the three Presidencies in British India; that it be a court of appellate jurisdiction only; that it shall, in communication with the local Government, have the complete superintendence and control over, and be held responsible for the efficiency of whatever system may be established for the administration of justice and for the regulation of police throughout the Presidency to which it belongs.

29th. That there be a high Court of Appeal in England, consisting of the President of the King's Council, an English lawyer of eminence, some of the King's retired Indian judges, and some of the Company's retired judicial servants; that it shall exercise an appellate jurisdiction over the three courts at the three Presidencies in India in cases of a large amount or of a particular description; shall try and decide all complaints brought against Indian judges for acts done by them while acting as judges in India; shall exercise, in communication with the Government in England, the complete superintendence and control over the whole system for the administration of justice and regulation of police throughout every part of British India; shall make a detailed report to both Houses of Parliament, at fixed periods, of its own proceedings, and of the state of the administration of justice and the police throughout British India, explaining in such report, for the information of Parliament, the nature of any defects which it may have observed, and of any improvements which it may have to propose; and, finally, that it be considered by Parliament as publicly responsible for the efficiency of the whole system of administering justice in India.

30th. That a commission consisting of three persons be sent by Parliament to India, for the purpose of collecting, with the assistance of the most intelligent Europeans and natives in the country, materials for framing such a code as has already been mentioned for the use of the inhabitants of British India; and that the duration of this commission be limited to three years, from the date of the arrival of the commissioners in India.

31st. That in order to enable the commissioners to obtain the official assistance of the natives of the country in framing that part of the code which relates to the civil law of the Hindoos and Mahomedans, the following plan be pursued:

That all the native inhabitants qualified to sit on juries in each province do elect a certain

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a certain number of the best informed and most respectable natives of the province into a committee, for the purpose of submitting to the commissioners a report, which shall contain an authentic account (arranged under such heads as shall be sent to them by the commissioners, of all the laws and usages which prevail in their province, together with their opinion as to the moral and political effect of each of those laws and usages, and as to the alterations which they may think necessary to be made in any of them.

That the commissioners do send to the committee so elected in each province a paper containing the different heads under which they require information respecting the laws and usages of the province; intimating to the committee at the same time, that it is their intention, as soon as the committee make their report, to exhibit it publicly, with the names of the persons who have framed it, to all the people of the province, for their consideration and observation.

That such report, when drawn up by the committee in the style and language best understood in the province, be publicly exhibited for six months, in the most frequented part of every village in the province, with a public invitation to the people of the village to offer such objections or observations upon the report as may occur to them, for the information of the commissioners, and with a public notice that should no such objections or observations be offered by them within six months, the commissioners will conclude that the report has received their approbation.

That the commissioners do, at the expiration of the above period of six months, collect the several reports, and do arrange from them, and from such other information as they may possess, a code of Mahomedan and Hindoo law for the approbation of Parliament.

That translations of the above code be made in every language and idiom which is spoken in any province of the British territories, and that a certain number of printed copies of it, be deposited for the use of the inhabitants, in the most frequented parts of each village in every province.

That the translation which is prepared for the use of any particular province be made under the immediate superintendence of the committee which framed the report upon the laws and usages of that province, and be read and explained by the respective servants of Government in each village of the province to every person belonging to the village.

Note.

The information upon which such a code is framed must be authentic, because it is derived from the best informed men in the country, chosen, for their local knowledge, by their own countrymen, under circumstances when they have no apparent motiveto deceive the commissioners; but, on the contrary, every motive arising from a desire to establish a character for talents, integrity, knowledge and patriotism amongst their countrymen, to afford the commissioners the most accurate information upon a subject which is intimately connected with the happiness, the prosperity, and the religious and moral institutions of themselves and their countrymen.

Such a code must be easily understood by the commonest person in the country, because it is drawn up in the language of the country, under the superintendence of those who are the best acquainted with that language, and because it has been explained to, and received the approval of, every person in the country.

It must be generally useful to the people of the country, because, from its being intelligible, and from its having been explained to them, it makes them know what the law is upon any particular subject, without the expense or inconvenience of consulting a lawyer; and because, in case of a law-suit, it enables the courts of justice to decide upon questions of law without difficulty or delay. It must be popular amongst the people of the country, because it is framed upon local information received by the commissioners from persons pointed out to the commissioners for the purpose by the people of the country, and confirmed as to its accuracy by the people themselves, to whom it was submitted for their consideration before it was received by the commissioners. It will relieve the people of the country from the expense, the delay, the inconvenience, and the oppression to which they are at present subject, from the incessant and endless law-suits which arise out of the obscurity and uncertainty of the laws by which their lives, their liberty, and their property are regulated, and enable each person really to do what, by a fiction of law he is in all countries presumed to do, understand the laws by which he is governed. It must always have weight amongst the people of the country, because it will always have the support of the persons of the greatest influence in the country, upon whose information it was framed, and of all the people of the country who publicly sanctioned that information. It will be instructive to the local government of the country, and to the Parliament of Great Britain, because it will afford them an authentic account of all the local laws, usages and institutions which prevail in the country, of all the good or bad moral and political effects which they produce, and of the different alterations and improvements, which, in the opinion of the best informed men of the country, may be introduced by Government into the habits and manners of the people.

(B.)

CONTAINS an Account of the measures adopted by Sir Alexander Johnston for the introduction of Trial by Jury, and the Abolition of Domestic Slavery on the Island of Ceylon, of the moral and political effects produced by those measures upon the natives of that Island, and of the circumstances connected with the Act of 1826, which, in consequence of the success of the similar measure on Ceylon, extended the right of sitting upon Juries to all natives of India living within the local limits of the Supreme Courts of Bombay, Madras and Calcutta.

AS our Indian administration, especially the judicial branch of it, is becoming, from peculiar circumstances, a subject of increasing interest, a statement, from authentic sources, of the important experiments which have been successfully made at Ceylon, accompanied by an exposition of the principles upon which they were adopted, and the advantages which they have already been attended with, cannot but be gratifying.

Sir Alexander Johnston, the then Chief Justice and first member of His Majesty's Council in Ceylon, after a very long residence on that island, a very attentive examination of all the different religious and moral codes of the various descriptions of people who inhabit Asia, a constant intercourse for many years, as well literary as official, with natives of all the different castes and religious persuasions which prevail in India, and a most careful consideration of every thing which related to the subject, recorded it as his official opinion, in 1808, that the most certain and the most safe method of improving the British Government in India, of raising the intellectual and moral character of the natives, of giving them a real interest in the British Government, and of insuring the continuance of their attachment to the British empire, was to render the system of administering justice amongst them really independent, efficient and popular; and that the wisest method of gradually attaining these objects, was by granting to the natives of the country themselves, under the superintendence of European judges, a direct and a considerable share in the administration of that system.

As a very general opinion prevailed, both in India and in England, that the natives of India, from their division into castes, from their want of intellect, from their want of education, and from their want of veracity and integrity, were incapable of exercising any political or any judicial authority, either with credit to themselves or with advantage to their countrymen, it was, for many reasons, deemed prudent by Sir Alexander Johnston that the experiment of allowing natives of India to exercise the same rights and privileges in the administration of justice in India as are exercised by Englishmen in Great Britain should be first tried on the island of Ceylon.

The intellectual and moral character of the inhabitants of Asia is formed, in a great degree, if not altogether, by the different systems of religion, and the different codes of morals which prevail amongst them, and which may be ranked (viewing them not according to the purity and truth of their doctrines, but according to the number of persons who are subject to their influence,) in the following order:—

1st. The Hindoo religion and code.

2d. The Buddhist religion and code.

3d. The Mahomedan religion and code. And

4th. The Christian religion and its system of morals.

Considering them, therefore, with a view to the peculiarities of their intellectual and moral character, the inhabitants of Asia may be divided into the four following great divisions, each division practically exhibiting, in the character and conduct of the different classes of people who belong to it, the intellectual and moral effect of their respective religious and moral codes:

1st. Those who profess the pure Hindoo religion, or some of its modifications.

2d. Those who profess the Buddhist religion, or some of its modifications.

3d. Those who profess the Mahomedan religion, or some of its modifications. And

4th. Those who profess the Christian religion, whether according to the doctrines of the reformed or of the Catholic Church.

The population of Ceylon consists of a considerable number of inhabitants of each of the four following descriptions of people; viz: 1st, of about half a million who derive their descent from the inhabitants of the opposite peninsula of India, who profess the same modification of the Hindoo religion, who speak the same language, have the same customs and laws, and the same division of castes, as those inhabitants; 2dly, of about half a million other inhabitants who claim their descent from the people of Ava and Siam, who have the same religious and moral code, and who profess the same modification and the same customs of the Buddho religion as the inhabitants of those two countries; 3dly, between 50,000 and 60,000 Mahomedan inhabitants, who are partly of Arab and partly of Mogul descent, who have the same customs and laws, and who profess the same modifications of the Mahomedan religion as prevail amongst the different classes of Mahomedans who inhabit the peninsula of India; and, 4thly, of a very considerable number of what in the rest

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rest of India are called half-castes, descended partly from Portuguese, partly from Dutch, and partly from English Europeans, some of them professing the Catholic, some the reformed religion, and all of them resembling in character and disposition the half-castes in the rest of India. As it was therefore obvious that the population of Ceylon was composed of a great number of each of the four great divisions of people of which the population of the rest of India was composed, Sir Alexander Johnston conceived that, should the experiment of extending the rights and privileges of Englishmen, in as far as they relate to the administration of justice, to all the different descriptions of half-castes and other natives on the island of Ceylon, be attended with success, it might therefore be acted upon with great moral and political advantage in legislating for the different descriptions of half-castes and other natives on the continent of India.

From the year 1802, the date of the first royal charter of justice, to the year 1811, justice had been administered in the courts on that island according to what is called, in Holland, the Dutch-Roman law, both in civil and in criminal cases, without a jury of any description whatever, by two European judges, who were judges both of law and fact, as well in civil as in criminal cases. In 1809, it was determined by His Majesty's Ministers, on the suggestion of Sir Alexander Johnston, that the two European judges of the Supreme Court on Ceylon should for the future, in criminal cases, be judges only of law, and that juries, composed of the natives of the island themselves, should be judges of the fact in all cases in which native prisoners were concerned; and, in November 1811, a new charter of justice under the Great Seal of England was published on Ceylon, by which, amongst other things, it was in substance enacted, that every native of the island who was tried for a criminal offence before the Supreme Court should be tried by a jury of his own countrymen, and that the right of sitting upon juries in all such cases should be extended, subject to certain qualifications, to every half-caste, and to every other native of the island, whatever his caste or religious persuasion.

This experiment of extending the rights and privileges of Englishmen having, after 16 years' experience, been found to be productive of the greatest security to Government, and of the greatest benefit to the people of the country, it has become a subject of serious consideration both in India and in England whether the same rights and the same privileges as, since the year 1811, have been exercised with the most beneficial effects by the natives of the island of Ceylon, may not also be exercised with the same good effect by all the natives of the East India Company's dominions in India; and Sir Alexander Johnston, at the request of the President of the Board of Control, wrote to him, in the year 1825, the letter, of which the following is a copy, explaining to him the reasons which originally induced Sir Alexander to propose the introduction of trial by jury amongst the natives of Ceylon, the mode in which his plan was carried into effect, and the consequences with which its adoption has been attended.

" Dear Sir, " 26th May 1825.

" I HAVE the pleasure, at your request, to give you an account of the plan I adopted while Chief Justice and first member of his Majesty's Council on Ceylon, for introducing trial by jury into that island, and for extending the right of sitting upon juries to every half-caste native, as well as to every other native of the country, to whatever caste or religious persuasion he might belong. I shall explain to you the reasons which induced me to propose this plan, the mode in which it was carried into effect, and the consequences with which its adoption has been attended. The complaints against the former system for administering justice on Ceylon were, that it was dilatory, expensive and unpopular. The defects of that system arose from the little value which the natives of the country attached to a character for veracity, from the total want of interest which they manifested for a system, in the administration of which they themselves had no share, from the difficulty which European judges, who were not only judges of law, but also judges of fact, experienced in ascertaining the degree of credit which they ought to give to native testimony, and finally from the delay in the proceedings of the court, which were productive of great inconvenience to the witnesses who attended the sessions, and great expense to the government which defrayed their costs. The obvious way of remedying these evils in the system of administering justice was, first, to give the natives a direct interest in that system, by imparting to them a considerable share in its administration; secondly, to give them a proper value for a character for veracity, by making such a character the condition upon which they were to look for respect from their countrymen, and that from which they were to hope for promotion in the service of their government; thirdly, to make the natives themselves, who, from their knowledge of their countrymen, can decide at once upon the degree of credit which ought to be given to native testimony, judges of fact, and thereby shorten the duration of trials, relieve witnesses from a protracted attendance on the courts, and materially diminish the expense of the government. The introduction of trial by jury into Ceylon, and the extension of the right of sitting upon juries to every native of the island, under certain modifications, seemed to me the most advisable method of attaining these objects. Having consulted the chief priests of the Budhoo religion, in as far as the Cingalese in the southern part of the island, and the Brahmins of Remissuram, Madura and Jafna, in as far as the Hindoos of the northern part of the island were concerned, I submitted my plan for the introduction of trial by jury into Ceylon to the Governor and Council of that island. Sir T. Maitland, the then Governor of Ceylon, and the other members of the Council, thinking the object of my plan an object of great importance to the prosperity of the island, and fearing lest objections might be urged against it in England, from the novelty of the measure, (no such

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rights as those which I proposed to grant to the natives of Ceylon ever having been granted to any native of India), sent me officially, as first member of Council, to England, with full authority to urge, in the strongest manner, the adoption of the measure, under such modifications as his Majesty's Ministers might, on my representations, deem expedient. After the question had been maturely considered in England, a charter passed the Great Seal, extending the right of sitting upon juries, in criminal cases, to every native of Ceylon, in the manner in which I had proposed, and on my return to Ceylon with this charter in November 1811, its provisions were immediately carried into effect by me.

" In order to enable you to form some idea of the manner in which the jury trial is introduced amongst the natives and half-castes of Ceylon, I shall explain to you; 1st, what qualifies a native of Ceylon to be a juryman; 2dly, how the jurymen are summoned at each session; 3dly, how they are chosen at each trial; and, 4thly, how they receive the evidence and deliver their verdict. Every native of Ceylon, provided he be a freeman, has attained the age of 21, and is a permanent resident in the island, is qualified to sit on juries. The fiscal, or sheriff of the province, as soon as a criminal session is fixed for his province, summons a considerable number of jurymen of each caste, taking particular care that no juryman is summoned out of his turn, or so as to infere with any agricultural or manufacturing pursuits in which he may be occupied, or with any religious ceremony at which his caste may require his attendance. On the first day of the session the names of all the jurymen who are summoned are called over, and the jurymen, as well as all the magistrates and police officers, attend in court, and hear the charge delivered by the judge. The prisoners are then arraigned; every prisoner has a right to be tried by 13 jurymen of his own caste, unless some reason why the prisoner should not be tried by jurymen of his own caste can be urged to the satisfaction of the court by the Advocate Fiscal, who on Ceylon holds an office very nearly similar to that held in Scotland by the Lord Advocate, or unless the prisoner himself, from believing people of his own caste to be prejudiced against him, should apply to be tried either by 13 jurymen of another caste, or by a jury composed of half-castes, or Europeans. As soon as it is decided of what caste the jury is to be composed, the registrar of the court puts into an urn, which stands in a conspicuous part of the court, a very considerable number of the names of jurymen of that caste out of which the jury is to be formed; he continues to draw the names out of the urn (the prisoner having a right to object to five peremptorily, and to any number, for cause), until he has drawn the names of 13 jurymen who have not been objected to: these 13 jurymen are then sworn, according to the form of their respective religions, to decide upon the case according to the evidence, and without partiality. The Advocate Fiscal then opens the case for the prosecution (through an interpreter if necessary) to the judge, and proceeds to call all the witnesses for the prosecution, whose evidence is taken down (through an interpreter if necessary), in the hearing of the jury, by the judge; the jury having a right to examine, and the prisoner to cross-examine any of the above witnesses. When the case for the prosecution is closed, the prisoner states what he has to urge in his defence, and calls his witnesses, the jury having a right to examine, and the prosecutor to cross-examine them, their evidence being taken down by the judge: the prosecutor is seldom or never, except in very particular cases, allowed to reply or call any witnesses in reply. The case for the prosecution and for the prisoner being closed, the judge (through an interpreter when necessary) recapitulates the evidence to the jury from his notes, adding such observations from himself as may occur to him on the occasion; the jury, after deliberating upon the case, either in the jury box, or, if they wish to retire, in a room close to the court, deliver their verdict through their foreman in open court, that verdict being the opinion of the majority of them; the most scrupulous care being taken that the jury never separate, nor communicate with any person whatever, from the moment they are sworn, till their verdict, having been delivered as aforesaid, has been publicly recorded by the registrar. The number of native jurymen of every caste on Ceylon is so great, and a knowledge before-hand what persons are to compose a jury in any particular case is so uncertain, that it is almost impossible for any person, whatever may be his influence in the country, either to bias or to corrupt a jury. The number of jurymen that are returned by the fiscal or sheriff to serve at each session, the impartial manner in which the names of the jurymen are drawn, the right which the prisoner and prosecutor may exercise of objecting to each juryman as his name is drawn, the strictness which is observed by the court in preventing all communication between the jurymen when they are once sworn, and every other person, till they have delivered their verdict, give great weight to their decision. The native jurymen being now judges of fact, and the European judges only judges of law, one European judge only is now necessary, where formerly, when they were judges both of law and fact, two, or sometimes three were necessary. The native jurymen, from knowing the different degrees of weight which may safely be given to the testimony of their countrymen, decide upon questions of fact with so much more promptitude than Europeans could do, that since the introduction of trial by jury, no trials lasts above a day, and no session above a week or 10 days at furthest; whereas before the introduction of trial by jury, a single trial used sometimes to last six week or two months, and a single session not unfrequently for three months. All the natives who attend the courts as jurymen obtain so much information during their attendance, relative to the modes of proceeding and the rules of evidence, that since the establishment of jury trial Government have been enabled to find amongst the half-castes and native jurymen some of the most efficient and respectable native magistrates in the country, who, under the control of the Supreme Court, at little or no expense to Government, administer justice in inferior offences to the native inhabitants. The introduction of the trial by native juries, at the same time that it has increased the efficiency and despatch of the courts, and

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has relieved both prisoners and witnesses from the hardships which they incurred from the protracted delay of the criminal sessions, has, independent of the savings it enabled the Ceylon government to make immediately on its introduction, since afforded that government an opportunity of carrying into effect, in the judicial department of the island, a plan for a permanent saving of 10,000 *l.* a year, as appears by my Report, quoted in page 8 of the printed collection of papers herewith sent. No man whose character for honesty or veracity is impeached can be enrolled on the list of jurymen; the circumstance of a man's name being upon the jury roll is a proof of his being a man of unexceptionable character, and is that to which he appeals in case his character be attacked in a court of justice, or in case he solicits his government for promotion in their service. As the rolls of jurymen are revised by the Supreme Court at every session, they operate as a most powerful engine in making the people of the country more attentive than they used to be in their adherence to truth: the right of sitting upon juries has given the natives of Ceylon a value for character, which they never felt before, and has raised in a very remarkable manner the standard of their moral feelings. All the natives of Ceylon who are enrolled as jurymen conceive themselves to be as much a part, as the European judges themselves are of the government of their country, and therefore feel, since they have possessed the right of sitting upon juries, an interest which they never felt before in upholding the British Government of Ceylon. The beneficial consequence of this feeling is strongly exemplified in the difference between the conduct which the native inhabitants of the British settlements on Ceylon observed in the Kandian war of 1803, and that which they observed in the Kandian war of 1816. In the war between the British and Kandian Government in 1803, which was before the introduction of trial by jury, the native inhabitants of the British settlements were, for the most part, in a state of rebellion; in the war between the same governments in 1816, which was five years after the introduction of trial by jury, the inhabitants of the British settlements, so far from showing the smallest symptom of dissatisfaction, took, during the very heat of the war, the opportunity of my return to England, to express their gratitude through me to the British Government for the valuable right of sitting upon juries, which had been conferred upon them by his present Majesty, as appears by the addresses contained from page 16 to page 50*, in the printed papers herewith sent. The charge delivered by my successor, the present Chief Justice of the island, in 1820, contains the strongest additional testimony which could be afforded of the beneficial effects which were experienced by the British Government from the introduction of trial by jury amongst the natives of the island. (*See* that charge in pages 289 and 290 of vol. X. of the Asiatic Journal.) As every native juryman, whatever his caste or religion may be, or in whatever part of the country he may reside, appears before the Supreme Court once at least every two years, and as the judge who presides delivers a charge at the opening of each session to all the jurymen who are in attendance on the court, a useful opportunity is afforded to the natives of the country, by the introduction of trial by jury, not only of participating themselves in the administration of justice, but also of hearing any observations which the judges, in delivering their charge, may think proper to make to them with respect to any subject which is connected either with the administration of justice, or with the state of society or morals in any part of the country. The difference between the conduct which was observed by all the proprietors of slaves on Ceylon in 1806, which was before the introduction of trial by jury, and that which was observed by them in 1816, which was five years after the introduction of trial by jury, is a strong proof of the change which may be brought about in public opinion, by the judges availing themselves of the opportunity which their charging the jury on the first day of session affords them, of circulating amongst the natives of the country such opinions as may promote the welfare of any particular class of society. As the right of every proprietor of slaves to continue to hold slaves on Ceylon was guaranteed to him by the capitulation under which the Dutch possessions had been surrendered to the British arms in 1795, the British Government of Ceylon conceived that, however desirable the measure might be, they had not a right to abolish slavery on Ceylon by any legislative act. A proposition was however made on the part of Government by me to the proprietors of slaves in 1806, before trial by jury was introduced, urging them to adopt some plan of their own accord for the gradual abolition of slavery; this proposition they at that time unanimously rejected. The right of sitting upon juries was granted to the inhabitants of Ceylon in 1811. From that period I availed myself of the opportunities which were afforded to me, when I delivered my charge at the commencement of each session to the jurymen, most of whom were considerable proprietors of slaves, of informing them of what was doing in England upon the subject of the abolition of slavery, and of pointing out to them the difficulties which they themselves must frequently experience, in executing with impartiality their duties as jurymen, in all cases in which slaves were concerned; a change of opinion upon the subject of slavery was gradually perceptible amongst them, and in the year 1816, the proprietors of slaves of all castes and religious persuasions in Ceylon sent me their unanimous resolutions, to be publicly recorded in court, declaring free all children born of their slaves after the 12th of August 1816, which in the course of a very few years must put

* See the collection of papers explanatory of Sir Alexander Johnston's public measures on Ceylon, which were printed on his resignation of the office of Chief Justice and President of his Majesty's Council on that Island in 1819

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put an end to the state of slavery which had subsisted on Ceylon for more than three centuries."*

Sir Alexander Johnston was fully aware, when he first introduced trial by jury into Ceylon, that the degree of confidence which the people of the country might be expected to repose in that institution would be proportionate to the conviction which they entertained, that they themselves would be always consulted as to the character and qualifications of those persons whose names were to be enrolled in the list of men qualified to act as jurors, and that neither the local government nor the Supreme Court would ever attempt to exert any undue influence, either in the original formation of that list, or in the subsequent selection from it, of such jurors as might from time to time be required to serve at any criminal session which might be held by the Supreme Court in any part of the island. The great object, therefore, which Sir Alexander Johnston had in view in all the regulations which he made upon this subject, was not only to render it extremely difficult, but to convince the people of the country themselves that it was extremely difficult, if not impossible, either for the local government or the court to exert any undue influence as to the jurors, without their attempt to do so becoming directly a matter of public notoriety and public animadversion.

It appeared to Sir A. Johnston that the surest method of attaining this object was to limit, as far as he could by public regulations, the power of the court and that of its officers; and to place them in every point which was in any way connected with the jury under the constant inspection and control of the people of the country. He accordingly, after much consultation with some of the most enlightened natives of the island, published a regulation, delaring that every man on the island, whatever might be his caste or religious persuasion, had a positive right to act as a juryman, provided he was a man of unexceptionable character, a free man, a permanent resident on the island, and had attained the age of twenty-one. Also declaring that the people of the country themselves should be the judges whether a man had or had not those qualifications which by this regulation gave him that positive right. Sir A. Johnston at the same time published another regulation, directing the fiscal or sheriff of each province on the island publicly to make and return to the Supreme Court a correct list of all persons in his province who were qualified as required by the former regulation to act as jurymen. To prevent the possibility of abuse on the part of the fiscal of any province, the following mode of proceeding was observed by the court: As soon as the fiscal of a province had made out and returned to the court a list of all the persons in his province who were duly qualified to serve as jurymen, this list was, by order of the court, published and circulated through every part of the province, for the specific purpose of enabling every inhabitant of the province to make such remarks on it as might occur to him, and to prefer, when necessary, an immediate and public complaint to the court against the fiscal, if it should appear that the fiscal either had omitted out of the list the name of any person whose name he ought to have inserted in it, or had inserted in the list the name of any person whose name he ought to have omitted. After the list had undergone this public scrutiny, it was publicly ordered by the court to be considered by the fiscal as the list of all persons who were duly qualified to act as jurors in his province, and that out of which he was bound to return by rotation all persons who were required to serve as jurors at the criminal sessions held by the Supreme Court in his province. Independent of these precautions against any abuse on the part of the fiscal, every person in a province in which the court was about to hold a criminal session had public notice given him, long before the session was held, that the list in question was always liable to be publicly revised by the court at the commencement of the session, upon any complaint which might be publicly made to the court by an inhabitant of the province, either against the fiscal for any impropriety of conduct in making out the list, or against any individual on the list for any impropriety of conduct in getting his name inserted in that list. Although, therefore, the Supreme Court and its officers, the fiscals, are allowed, for convenience sake, to be the instruments through which the list of persons on the island qualified to act as jurymen is obtained, it is hardly possible, considering the manner in which in which all their proceedings in this point are watched and controlled by the people of the country, that either the court itself or its officers can exert any undue influence in the selection of jurors without such conduct being immediately known, and becoming a subject of public and general animadversion.

One of the most important of the effects which the introduction of trial by jury produced on Ceylon was to place the European judges and the native jurymen in constant communication in court upon various subjects connected with the administration of justice, and thereby remove from the minds of all classes of the natives the suspicion and jealousy with which they had previously viewed all inquiries made by Europeans into the state of their religion, of their usages, their morals and their education. As an illustration of this, we insert the following copy of the answer given by Sir A. Johnston to the address presented to him on his departure from Ceylon in 1818, by the chiefs and all the subordinate priests of Buddho, on behalf of themselves and of all the natives of Ceylon professing the Buddho religion. This address was one of the addresses to which Sir Alexander alludes in his letter to Mr. Wynn.

"I feel

* See pages 15 and 16, of the Eleventh Report of the Directors of the African Institution, and from page 93 to page 100 of the Appendix of that Report.

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"I feel highly gratified by the respect and esteem which you have shown for me, in coming, notwithstanding the very advanced period of your lives, from so great a distance as you have done, to take leave of me and my family, and to present to me, in your own name, and in that of all the priests of your order, and all the Buddhists within your jurisdiction, an address that cannot be otherwise than gratifying to my feelings.

"The number of the priests of Buddho, and the influence which they exercise over the minds of their followers, from being the ministers of their religion and instructors of their youth, have, for many years, made their religion, their books, their laws, and their institutions, a subject of my serious inquiry. In arranging the code of laws which, in obedience to His Majesty's commands, I have compiled for the use of the native inhabitants of Ceylon, it became my duty to compare such of the codes as are the most approved in Europe and Asia, with such of the usages and customs as are the best authenticated on this island; and to adopt such parts only of those codes as are clearly applicable to the state of the country, and as may, therefore, be expected to attain the ends of justice, without militating against the habits and prejudices of the people.

"In performing this duty, I have had frequent communications with you and with the other learned men of your order, and it is with pleasure I take the present opportunity to return to you and them my public thanks for the alacrity with which you have at all times afforded me the information required, and for the unlimited freedom with which you have permitted me to consult the books in your temples, to which I have had occasion to refer; the translations into English which you have enabled me to procure of the three most celebrated histories of your country and your religion, the Mahawanscie, Ragawalle, and the Rajaratnakarre, and the numerous extracts which you have made for me from all your other Sanscrit, Palee, and Cingalese books, together with the different works I have since obtained from the Brahmins of Jaffna, and those of the southern peninsula of India, form a most valuable collection of materials for any person who may have the desire and the leisure to write a general history of your country, and to explain at length the origin and peculiarities of the several castes, customs and usages which prevail amongst you, and which are so intimately connected with your prosperity and comfort, as to render an accurate knowledge of them not only desirable as a matter of literary curiosity, but absolutely necessary as a matter of duty to every one who may be intrusted with the administration of justice among you, or with the superintendence of the government of your country.

"The rules which the intended code contains are so short and so clear, that the inhabitants will have little or no difficulty either in understanding or applying them. I have, as you know, spared neither pains nor expense for the last sixteen years of my life, in acquiring the most intimate knowledge of the wants and interests of every class of people in Ceylon; it was solely with a view of ascertaining, in a way more satisfactory than I otherwise could have done, the degree of caution and impartiality with which the natives of the island, if admitted to the right of sitting upon juries, would discharge the duties of jurymen, in cases in which their own countrymen are concerned, that I advised the Colonial Government in 1806 to refer a certain description of cases for trial to that committee of priests at Matura, of which you were the principal members. The very judicious manner in which that committee investigated those cases, and the soundness of the principles on which the members of it relied in framing their decisions, satisfied me not only as to the policy but as to the perfect safety of intrusting the natives of Ceylon with the right of sitting upon juries. After this experiment had been tried with success, but not before, I felt myself authorized to proceed to England, and to propose to His Majesty's Government the unlimited introduction of trial by jury into Ceylon, and the formation of a simple code of laws for the use of its inhabitants. The care and attention with which all the worshippers of Buddho, as well as all the natives of other religious persuasions have discharged the duties of jurymen, show that they not only understand the nature of that mode of trial, but also that they are fully competent to enjoy the privileges which it gives them, with credit to themselves and with advantage to their countrymen. The experience which you have had for seven years of the practical effects of that establishment, and the information you have derived from the Supreme Court, as well as from the book upon trial by jury, which I have caused to be translated into Cingalese and Tamul, have naturally impressed you with the highest respect for that simple and much admired mode of trial. My observations, aided by that of some persons who are the best qualified to form an opinion upon the subject, have suggested to my mind several improvements in the present system of administering justice amongst the natives of Ceylon. Should His Majesty's Government, while I am in England, be pleased to command me to submit to them my opinion upon the subject, I shall be happy to point out for their consideration such alterations as I am aware, from my communications with you, are desired by the inhabitants and will be highly beneficial to to the interest of the island.

"The ultimate effect which any system of laws is calculated to produce in a country depends, in a great degree, upon the state of society, and upon the system of religion and morals which prevail in that country. As it has always been my wish to see the same effect produced in this country as is produced invariably in England by an independent and well administered system of justice, it has been my endeavour always to approximate, as much as circumstances would permit, the state of society and the systems of religion and morals which prevail in Ceylon to those which prevail in England. With a view to the state of society in Ceylon, I have, since 1806, left no means untried to encourage the proprietors of domestic slaves to adopt such a resolution as they, at my suggestion, unanimously adopted in July 1816; and it is a subject of sincere congratulation to all the friends of humanity in Ceylon, whether they profess the faith of Buddho, or that of Mahomet or

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Brahma, that the unanimity with which that resolution was passed was so great as to leave no doubt of its being the sense of the people on this island, that the system of domestic slavery is equally destructive to the morals of the slave, as it is to those of the master and his children. With a view to the different systems of religion and morals in Ceylon, I, twelve years ago, after much consultation upon the subject with some of the most enlightened of the Buddhists, caused the summary of the evidences of Christianity, which was drawn up by one of the ablest of our divines, the late Bishop of London, to be translated into Cingalese, in order that you yourself might have a fair opportunity of comparing the evidence upon which we form our belief in Christianity with that upon which you form your belief in Buddhism. The conversation which many of you have frequently had with me upon those points, as well as upon the beneficial effects which may finally be expected from the general extension of Christianity, both upon the present and the rising generation of the people, have afforded me an ample opportunity of becoming acquainted with the liberal sentiments which you entertain, when properly treated, upon all questions of religion; and I reflect with satisfaction on the ready assistance which I received from many of the most rigid of the worshippers of Buddho in the translation to which I have alluded. The zeal with which the two priests of Dodanduwae have insisted upon accompanying me to England, under circumstances which to most men would have been discouraging, is at once a mark of the confidence which your body repose in me, and of the spirit of inquiry and of the desire of information which has arisen amongst them. These young men will, no doubt, from the knowledge which they possess of your literature and religion, and the variety of their other acquirements, be of considerable use to me in translating into Cingalese the code which I am about to submit to His Majesty's Government in England, and will have the best opportunity that could have occurred to them of becoming acquainted with the real effect which the principles of our religion unquestionably have had in enlightening the understanding, and improving the morals of the inhabitants of that most celebrated country.

"I have the honour to be, &c.

"*Alexander Johnston.*"

(C.)

COPY of a MEMORANDUM drawn up by Sir *Alexander Johnston* for the late Marquis of *Londonderry*, of some alterations which he thought advisable in the System for administering Justice in *India*. The plan, in as far as it related to the Supreme Courts to be tried in the first instance in the Territories under the Madras Government.

THE Supreme Court at Madras to consist of six judges, to have a criminal jurisdiction over all the territories and persons, natives as well as Europeans, under the Madras government.

The judges to make frequent criminal circuits throughout those territories, having native grand and petty juries for the trial of native offenders at each place where they hold their criminal sessions.

The Sudder Adawlut (the Supreme Civil Court) at Madras to consist of the judges of the Supreme Court, and a certain number, as at present, of the Company's senior civil servants.

A person, either from the Scotch, the English, or the Irish bar, to be attached as legal adviser to each of the four provincial courts under the Madras government.

An Act to be passed, specifying what part of the English law shall apply to the British and other Europeans in India.

That a Hindoo code, for the use of all the Hindoos under the Madras government, be forthwith drawn up in communication with the best informed Hindoos in each of the provinces under the Madras government.

That a Mahomedan code, for the use of all the Mahomedans under the Madras government, be drawn up in communication with the best informed Mahomedans, in each of the provinces under that government.

That a regulation be framed, specifying the nature of the different Acts, which are to be deemed criminal offences, and the nature of the punishment which is to be attached to each of those acts.

That the Hindoo and Mahomedan code, and this last mentioned regulation, be translated into all the different languages which prevail throughout all the British territories under the Madras government, and that they be published throughout those territories.

That all the respectable natives of the country be admitted to act as frequently as possible as grand and petty jurymen, as judges, and as magistrates, under the superintendence and control of the Supreme and Company's courts.

That the proceedings in the Company's courts be carried on in the most usual language of the people of the country in which they are established; that writing be dispensed with as much as possible in those proceedings; and that all suits be decided as near as possible to the homes of the parties and witnesses who are concerned in them.

That a code be made of all the different maritime customs and laws, of all the different classes of natives of India who trade with any part of the coasts of the Company's territories in India, and that it be translated into all the different languages which are in general use amongst those people, and that it be made as public as possible amongst them.

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That native as well as European judges be appointed at the most convenient ports, to decide, with the least possible delay and expense, all such maritime cases as may be brought before them.

That a right of appeal be allowed from all the superior courts in India to the court in England for hearing India appeals in all cases of a certain amount, and a certain description.

That the court in England for hearing India appeals be composed of the judges who retire upon pensions from the Supreme Courts in India, Ceylon, the Isle of France, and the Cape of Good Hope, and of some of the Company's retired civil servants, who have been judges of the Courts of Sudder Adawluts in India; and that it be perfectly understood, that the judges are to receive no other remuneration than their pensions for belonging to this court.

That the President and one other of the members of His Majesty's Privy Council, being a lawyer of professional eminence and high rank, be appointed by His Majesty to preside in this court.

That a certain number of the judges of this court be in regular attendance for the purpose of trying all such cases of appeal as may come before them.

That they deliver into both Houses of Parliament, at the commencement of each session, a statement of the number of cases which have come before them, the number which they have decided, and the number, if any, that are in arrear.

That they also deliver into both Houses of Parliament, once every year, a report of the state of the system for administering justice in India, specifying what defects they have observed in that system, and what improvements they propose.

That the judges of all the different Supreme Courts in India be appointed as the judges in England are appointed, not during pleasure, but during good conduct, and that they be removable from their offices only by addresses from both Houses of Parliament to the King.

THIS Paper was drawn up by Sir Alexander Johnston, at the request of the present Master of the Rolls, who agreed with Sir Alexander in thinking it would be an improvement in the present system of Indian judicature, even were no further alteration introduced, to unite the Chief Justices of the Supreme Courts in British India with the Judges of the Sudder Adawluts. As this Paper is founded upon a shorter one, which was delivered to Lord Londonderry, in 1822, it is added to the foregoing Paper, for the purpose of showing the utility of uniting the King's and Company's Judges in India in the manner proposed in the third clause of that Paper.

THE measure of making the Chief Justice of the respective King's Supreme Courts at Bombay, Madras and Calcutta, members of the respective Company's Sudder and Nizamut Adawlut Courts, at each of these Presidencies, will be attended with very great advantages—

1st. To the King's judges of the Supreme Courts.
2d. To the Company's judges of the Sudder and Nizamut Adawlut Courts.
3d. To the native inhabitants of the country.
4th. To the East India Company's government at Bombay, Madras, and Calcutta.
5th. To the King in Council, as a court of appeal from the Courts of Sudder and Nizamut Adawlut at those Presidencies.

1st. To the King's judges of the Supreme Courts, for the following reasons:

It will afford them the most efficient means of obtaining authentic information upon all local questions; make them thoroughly acquainted with the religious and moral feelings of the natives of the country; with their prejudices; with all the peculiarity of castes which prevail amongst them; with the manners and customs of the different inhabitants, to what ever caste or religious pursuasion they may belong; with the various revenue and police regulations of the local government; with all the modifications of the Hindoo law, as it prevails in civil cases, and those of the Mahomedan law, as it prevails both in civil and in criminal cases, throughout the whole of the territories which are under the respective Presidencies, and thereby enable them to exercise the different judicial powers with which the King's Supreme Courts are invested at Bombay, Madras, and Calcutta; in such a manner as to attain the real and substantial ends of justice, without militating against the feelings and prejudices of the people.

2d. To the Company's judges of the Sudder and Nizamut Adawlut Courts, for the following reasons:

It will afford those judges who have not had a legal education, by personal and habitual communication upon the subject with the King's judges, the most efficient means of becoming thoroughly acquainted with the general and fundamental principles of law, and with the high feelings of judicial independence which so peculiarly characterises the British judges; and will thereby give them additional confidence in their own judgments, and a higher opinion of their own independence, as judges; and inspire the natives of the country with more implicit confidence in the wisdom and impartiality of their decisions.

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3d. To the native inhabitants of the country, for the following reasons:—

It will not only make them acquire, but make them believe that they have acquired, an additional security for their lives, their liberty, their property, their religion, and their ancient customs; to such of them as live within the local jurisdiction of the respective King's courts, by making them believe that the judges of those courts possess not only what they now allow them to possess,—well-informed judicial understandings, and a high sense of judicial independence, but also that which they at present do not conceive them to possess,—a thorough knowledge of the native manners, local customs, native laws, religion and caste. To such of them as live without the jurisdiction of the King's, and are solely under that of the Company's courts, by making them believe that by appeal at least to the Sudder and Nizamut Adawlut's, of which the Chief Justice of the Supreme Court is a member, they will receive the same protection from the judges of those courts as they would do from the judges of the Supreme Courts, an advantage of immense importance, when it is recollected that every native of the country, not residing within the local jurisdiction of one of the Supreme Courts, is subject to be tried for every criminal offence, capital or not, with which he may be charged, according to the very obscure and very uncertain rules of the Mahomedan law; without a jury, and by judges, who, however able and respectable they may be, are sent out to India at a very early period of their life, as mere civil servants of the East India Company, and without having had any previous legal education or practice to prepare them for the judicial offices to which they are afterwards appointed in India.

4th. To the East India Company's governments at Bombay, Madras and Calcutta, for the following reasons:—

1st. It will, by making the Chief Justices of the King's Supreme Courts members of the Company's Courts of Appeal, the Sudder and Nizamut Adawlut's, both in criminal and in civil cases, unite in spirit and feeling, though not in name, the King's system with the Company's system of administering justice in India. In criminal cases, by putting an end, in some degree, to the strange and anomalous distinction which at present prevails between the situation of those native subjects of the East India Company who live within, and those who live without, the local jurisdiction of the Supreme Courts; the former, at present, if they be charged with the commission of a criminal offence, having the advantage of being tried for that offence according to the clear and precise rules of the English criminal law, by King's judges, who have had a regular legal education, and by a jury of Englishmen; the latter, at present, if they be charged with the commission of the very same kind of offence, being deprived of all those advantages, and being liable to be tried according to the obscure and uncertain rules of the Mahomedan criminal law, by civil servants of the East India Company, who never have had any legal education, and without a jury of any description whatever. In civil, by extending in all cases of an appealable amount, to those native subjects of the East India Company who live without the jurisdiction of the Supreme Courts, the advantage which at present is enjoyed by those only who live within the jurisdiction of the Supreme Court, of having their civil suits decided in appeal by a King's judge, who has had a regular legal education.

2d. It will also, by affording the additional security to the natives which has just been described, in all cases, as well in those which relate to the questions of land, agriculture and manufacture, as in those which relate to revenue, improve the state of the agriculturers, manufacturers and traders, and relieve the people of the country from many of the oppressive measures which are adopted towards them by the native subordinate agents of Government, who at present are so apt to identify, in the opinion of the European collectors, the necessity of oppressive acts with the prompt and certain collection of the revenues, as in some degree to make the collectors themselves connive at their misconduct, for fear of diminishing the amount of the revenue collected in their respective districts.

3d. It will also, by thus rendering more secure the lives, the liberty and the property of all the native subjects of the East India Company, whether they live within or without the local jurisdiction of the King's Supreme Courts of Bombay, Madras and Calcutta, increase the interest which those native subjects feel in the permanent continuance of those governments; at the same time that it will, in consequence of the union of the two systems of administering justice, diminish the probability and the frequency of those collisions between the King's courts and the Company's local governments, which, as long as the present state of the judicial establishments in India remain, it is very difficult, if not impossible, to prevent, and which must always inevitably diminish the authority both of the respective courts and of the respective governments in the eyes not only of the native subjects of the East India Company themselves, but also in the opinion of those native governments which are established in different parts of Asia.

5th. To the King in Council, as a court of appeal from the Courts of Sudder and Nizamut Adawlut, at Bombay, Madras and Calcutta, for the following reasons:—

From the Chief Justice of the Supreme Courts, who is a member of the Sudder and Nizamut Adawlut, being thoroughly acquainted with the nature of the proceedings which take place before the King in Council in England, the Courts of Sudder and Nizamut Adawlut will become aware, not only of the information which ought to be sent home by them to the King in Council, in order to enable them to form their opinion without delay upon the cases appealed to them, but also of such steps as it is their duty to instruct the natives who are concerned in these appeals to adopt, in order to bring the appeals to a speedy decision and hearing in England, and thereby prevent the recurrence in future of such

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such delay and inconvenience as has hitherto been incurred, both by the parties interested and by the government of the country, in those cases between natives of India which have come by appeal before the King in Council from the three Courts of Sudder and Nizamut Adawluts of Bombay, Madras and Calcutta. It was for these reasons that the late Marquess of Cornwallis and the late Lord Melville were of opinion that the addition of the King's judges of the respective Supreme Courts to the Company's judges of the respective Sudder and Nizamut Courts would be a great improvement in the system for the administration of justice in the Company's territories in India. It was for the same reasons that the late Lord Melville, when, as Secretary of State for the War and Colonies, he framed in 1801 a system for the administration of justice in the King's possessions on the Island of Ceylon, made the chief and puisne justices of the Supreme Courts on that island members of the High Court of Appeal, which had formerly been composed of civil servants in the King's service, in the same way as the Courts of Sudder and Nizamut Adawluts in the Company's territories are now composed of civil servants in the Company's service, and which High Court of Appeal has the same sort of appellate jurisdiction over the inferior courts composed of King's civil servants in different parts of the Island of Ceylon as the Courts of Sudder and Nizamut Adawlut exercise over the different inferior courts composed of Company's civil servants in different parts of the Company's territories in India. It was for the same reasons that the late Marquess of Londonderry, in 1810, informed Sir Alexander Johnston that he was perfectly convinced, from his long experience in Indian affairs, that the manner in which the High Court of Appeal was constituted in the King's possessions in Ceylon, partly of the King's judges and partly of civil servants, was preferable in every respect to that in which the Courts of Sudder and Nizamut Adawlut in the Company's territories were constituted, viz. solely of the Company's civil servants. It was for the same reason that Sir Alexander Johnston, (while, as Chief Justice and President of His Majesty's Council in Ceylon, he was employed in revising the judicial establishments of that island in 1810, after twelve years' experience of the advantageous effects which had been produced on Ceylon by the union of the judges of the Supreme Court with the civil servants in the High Court of Appeal in Ceylon,) advised His Majesty's Government to continue this method of constituting the Court of Appeal on Ceylon, as one which was of the greatest advantage, not only to the King's judges and the civil servants themselves, but to the natives of the country and the government of the island.

(D.)

THIS Paper was written in 1831. It contains a Copy of the Paper which, in 1826, Sir Alexander Johnston gave to Mr. Wynn, then President of the Board of Control, and to some of the other Members of the Privy Council; and also a Copy of some suggestions relative to the Appellate Jurisdiction of the King in Council in Indian Appeals, which Sir Alexander, at the request of the Lord Chancellor, Lord Brougham, gave to his Lordship in November 1830.

THE number of appeals to the Privy Council from the three courts of sudder adawlut, in India, which have remained for so many years unheard and undecided, have been productive of the greatest expense and inconvenience to the parties who are interested in them, and are likely to diminish, in the opinions of the natives of India, the respect which they would otherwise entertain for the administration of justice by British judges in British courts of judicature; we therefore conceive it will be interesting to those who are connected with India to know the different steps which have been taken by Sir Alexander Johnston, the late President of His Majesty's Council in Ceylon, since his return to England, with a view of remedying the inconveniences which have been felt by the natives of India, in consequence of the great delay which has hitherto occurred in deciding those cases which have been appealed from the several courts of sudder adawlut in India to the King in Council in this country; we therefore publish the paper upon the subject, which was written and given to Government by Sir Alexander Jonston, in 1826, as appears in his evidence before the Committee of the House of Lords.

The real object of the British constitution in considering the King in Council as a court of appeal from the different courts established in all the British colonies is, to secure, through those courts, and their respective judges, for all the inhabitants of those colonies, whether Europeans or natives, by placing them directly under the protection and superintendence of His Majesty in Council, the strict observance of those different systems of law which the legislature has deemed wise to establish amongst them.

As it is, therefore, the duty of the King in Council, as a court of appeal, to afford that protection to the inhabitants of those colonies, by affirming all such decisions of the colonial courts as may be in conformity with those systems of law, and by reversing all such decisions as may be in opposition to the same systems of law, it is obvious that the King in Council, in order that they may discharge their duty as a court of appeal with the least possible delay, expense and inconvenience to the parties who are concerned in appeals, and also, in order that they may, at the same time, by the soundness and promptitude of their decisions, encourage those who really believe themselves to be aggrieved, discourage those who put in an appeal merely for the purpose of gaining time or oppressing their adversary, should themselves not only possess a thorough knowledge of all the different systems of colonial law, but should always have sufficient leisure to attend to each case of appeal as soon as it is brought before them.

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The King in Council, in addition to the appellate jurisdiction which they exercised over the British colonies in the West Indies, and in North America, previous to the year 1773, have, since the year 1773, been, from time to time, vested, by different Acts of Parliament, royal charters and royal institutions, with an immense appellate jurisdiction over all the colonies which have, since that period, been acquired by the British arms, at the Cape of Good Hope, on the Isle of France, on the island of Ceylon, and in the East India Company's territories in the East Indies.

The appellate jurisdiction with which the King in Council has been vested since the year 1773, in as far as it relates to the colonies which have just been mentioned, extends over eleven supreme courts; viz. eight King's and three Company's courts, which have been established in the King's possessions at the Cape of Good Hope, in the Isle of France, and in the island of Ceylon, and in the East India Company's possessions at Calcutta, Madras, Bombay, and the Prince of Wales's Island. In order to understand thoroughly the nature of these different courts, as well as the nature of the different systems of law according to which they are bound to proceed, it may be necessary to consider them in detail.

The following are the different courts in those colonies over which the King in Council exercises an appellate jurisdiction.

The following four are established in King's settlements, viz.—
The King's Court at the Cape of Good Hope.
The King's Court at the Isle of France.
The King's Supreme Court of Justice, } In Ceylon.
The King's High Court of Appeal, }

The following seven are established in the East India Company's settlements:
The King's Supreme Court at Calcutta.
The King's Supreme Court at Madras.
The King's Supreme Court at Bombay.
The King's Recorder's Court in Prince of Wales's Island.

The Company's Courts, called,
The Sudder Dewanee Adawlut, at Calcutta.
The Ditto, at Madras.
The Ditto, at Bombay.

These three last courts are established by the East India Company, under the authority of different Acts of Parliament; these are the three high courts of appeal established at Calcutta, Madras and Bombay, to which an appeal lies in certain cases from every inferior court established by the Company in every part of the three presidencies of Calcutta, Madras and Bombay, consisting in all of upwards of 80 separate courts, composed of upwards of 120 judges, and from which three Company's high courts of appeal an appeal lies, in cases of a certain amount, to the King in Council.

The jurisdiction of the court at the Cape of Good Hope extends over all cases, all civil persons, and all lands in that colony.

The jurisdiction of the court at the Isle of France extends over all cases, all persons, and all lands in that colony.

The jurisdiction of the supreme court, and that of the high court of appeal in Ceylon, taken together, include every case whatever, of a certain amount, which can occur on that island.

The jurisdiction of the three King's supreme courts at Calcutta, Madras and Bombay, and that of the three Company's high courts of appeal, called Sudder Adawluts, taken together, include every case, of a certain amount, that can occur within the three presidencies of Calcutta, Madras and Bombay.

The jurisdiction of the King's Recorder's Court, on the Prince of Wales's Island, and that of the subordinate courts in the settlements of Malacca and Singapore, include all cases that can occur, of a certain amount, within those three settlements.

The system of law which prevails in each of the above colonies is as follows:

At the Cape of Good Hope:—The law in force in this colony is what is called the Dutch Roman law, modified in some instances by the colonial regulations made by the Dutch, and the English colonial governments respectively.

Isle of France:—The law in force in the Isle of France is the Roman law, as modified during the French revolution in France, and as still further modified by the colonial regulations made by the French and the English colonial governments respectively.

Island of Ceylon:—1st. The law in force in the island of Ceylon, in as far as it relates to the Dutch, English and Cingalese inhabitants of the maritime parts of that island, is the Dutch Roman law, modified by the colonial regulations of the Dutch and English Governments.

2d. In as far as it relates to all the Mahomedan inhabitants on the island, the Mahomedan law, as observed amongst the Mahomedans of Arab descent, who inhabit the coasts of Malabar and Coromandel.

3d. In as far as it relates to the *Cingalese* inhabitants of the Kandian country, or interior of the island, the Buddhist law (with some local modifications), as observed amongst the Buddhist inhabitants of the Birman empire and Siam.

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4th. In as far as it relates to the Hindoo inhabitants of the north-west, north and north-east parts of the island, the Hindoo law (with some local modifications), as observed amongst the Hindoo inhabitants of the Peninsula of India.

5th. In as far as it relates to the people called Morquas, who inhabit two considerable provinces in Ceylon, the one on the south-east, and the other on the north-west side of the island, the Hindoo law, as observed amongst the Hindoo inhabitants on the coast of Malabar.

6th. In as far as it relates to maritime causes between the natives of India, the Mallealun and *Malay* maritime law.

The East India Company's three presidencies of Calcutta, Madras and Bombay, and the Settlements of the Prince of Wales's Island:—

The law in force in the whole of the above territories of the East India Company, in as far as it relates to the European inhabitants, is the English law, as introduced into those territories, and modified by the several charters of justice, by which the several King's courts have been established in them. In as far as it relates to the immense population of the Hindoo inhabitants, the Hindoo law; and in as far as it relates to the Mahomedan inhabitants, the Mahomedan law; both these laws subject, however, to the modifications which have been introduced into both of them by the East India Company's local regulations.

From the above considerations it appears, First, that the King in Council, as a court of appeal from the eleven supreme courts which have just been mentioned, exercises an appellate jurisdiction which, directly and indirectly, in as far as it relates to persons, includes a population of upwards of 80 millions of people; in as far as it relates to territory, includes countries, which, independent of the Cape of Good Hope, and the Isle of France, extend to upwards of 1,400 miles in length, and nearly as many in breadth, and which comprises the chief part of that vast region which is bounded by the Indus in the north-west, the great range of the Thibetean Mountains in the north-east, and by the Ocean on the south-east and south-west; and in as far as it relates to the nature of the cases which may be brought before the King in Council by appeal, includes every question of contract, inheritance, land and revenue, of a certain amount, in which, besides all the great interests of the Crown, and of the nation, not only the immense revenue of the East India Company, upwards of 15,000,000*l.* sterling a year, and the tenure of every foot of land in their dominion, but also every religious and moral feeling, as well as every prejudice of the people of every religion in the country, are most deeply concerned.

Secondly, That the King in Council may, as a court of appeal from those courts, be called upon to decide questions of the utmost importance to the prosperity and tranquillity, not only of the Cape of Good Hope, the Isle of France and Ceylon, but of every part of India; to consider questions, not only of English, French and Dutch colonial laws, but some of the most intricate questions of Hindoo, Mahomedan, and Buddhist law. That their construction of such laws must form the rule of decision as to those laws, not only for every court superior, as well as inferior, established at the Cape of Good Hope, Isle of France and Ceylon, but also for every court superior, as well as inferior, established in every part of India; and finally, that they are called upon for the due protection of upwards of 80,000,000 of inhabitants to exercise a vigilant superintendence, and a prompt control over upwards of 150 judges, situated between 14,000 and 16,000 miles off from the mother country.

Considering the variety of the different jurisdictions, and of the different systems of law which have been described, it seems obvious, that the persons who from their local knowledge and their leisure are the best qualified for deciding cases in appeal, from the Isle of France, Cape of Good Hope, Ceylon, and the Company's possessions in the East Indies, are those King's judges who, after having held in the King's and Company's colonies, for many years, some of the highest and most responsible judicial situations in the gift of the Crown, are allowed to retire upon pensions granted to them for life by the Crown, not only as a reward for their services, but as a mark of public approbation. Their having been appointed to those offices is a proof that they originally were men of known character in their profession. Their having been allowed to retire from office upon pensions is equally a proof that their conduct, while in office, was such as deserved the approbation of their Government. Their legal education makes them aware of the sort of local information which it is necessary for them to acquire. Their long residence in the colonies, and the influence they derive from their judicial situations, afford them the very best opportunity of acquiring the most authentic information; and the age at which most of them are appointed to those situations enables them to avail themselves of that opportunity while in the full vigour of their understanding.

As it is, therefore, highly advisable that the King in Council be enabled to avail themselves, as a court of appeal, of the assistance of these judges; and as objections may possibly occur to the King's appointing them members of the Privy Council, it is proposed that His Majesty in Council be empowered by a legislative act, from time to time, to call upon such of these judges as he may think proper to act as legal assessors to the King in Council whenever they sit as a court to hear appeals from the colonies.

A court of appeal so constructed must always be efficient, and must always be popular in the colonies; it must be efficient, because it must always have in it at least some members

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bers who are thoroughly acquainted with the peculiar system of colonial law, according to which the court is bound to decide, and with the local circumstances of the people amongst whom that law prevails; who, from long residence in colonies, feel an interest in colonial questions; who, from having retired from office on pensions, have leisure to attend the court whenever their presence may be necessary; and who, from not having the excuse which other members may have, of official avocations, want of time, and want of local knowledge, must feel themselves to be acting under a much higher degree of responsibility to the public, both as to the soundness and to the promptitude of their decisions.

It must always be popular in the colonies, because it is composed of men, who, as the inhabitants of the colonies themselves know, were originally appointed judges in the colonies by the Crown, with great salaries, and with high rank, for the express purpose of securing for the inhabitants a strict observance of their laws, and for affording to the inhabitants the most ready protection and redress against any oppression which might be offered to their persons or their property; of men, to whom the inhabitants themselves have always, for this reason, been accustomed to look up as to the most faithful of their protectors; of men, whom the inhabitants themselves believe to feel an interest in their welfare; whom they know to be thoroughly informed with respect to their laws and customs; and who, they therefore conceive, will be always ready and able to decide upon such cases as are brought before them in appeal from the colonies, with the least possible delay, expense and inconvenience to the parties who are concerned.

The measure of associating the colonial judges who retire upon pensions from their office as legal assessors, with the members of the Privy Council, will be gradually attended with the most beneficial effects, as well to the colonies themselves as to His Majesty's Government. To the colonies, because it will afford to the colonies, from time to time, as the judges respectively return to England, and retire upon their pensions, an opportunity of having the state of their laws, and that of the administration of justice amongst them, brought before His Majesty in Council in the most authentic shape, by persons in whose knowledge, integrity and judgment, they have the fullest confidence.

To His Majesty's Government, first, because it will enable the King in Council to make a perfect collection of all the different colonial systems of law which prevail in the British colonies, and to ascertain, from the most authentic sources, what effect each of those systems has in its respective colonies, what alteration is required in those systems, and how such alterations may be introduced with advantage to the people.

Secondly, because it will enable His Majesty in Council to derive their information from men whose legal education in England, and whose local experience in the colonies, qualify them to give their opinion upon the subject, both as English lawyers, conversant with the principles of the British constitution, and as colonial lawyers, conversant with the real state of the British colonies; and therefore qualify them to apply the general principles of the law, and the general principles of the British constitution, to the local peculiarities and to the state of society in the British colonies.

Thirdly, because it will accustom the colonies to consider the King in Council as a tribunal in which their respective interests are thoroughly understood; in which every question relative to them will not only excite a proper degree of interest, but will receive the earliest consideration, and in which they may, therefore, be certain of receiving immediate redress on any occasion in which they may feel themselves aggrieved.

As many cases in which both appellants and appellees are natives of India have been for many years in appeal before the King in Council, from the courts of sudder adawluts of Bombay, Madras and Calcutta, and as they have not been prosecuted before the King in Council owing to the parties concerned not having appointed any agents to act on their behalf in England, it is proposed, in order to get rid of all the cases of this description which are now in appeal, and in order to prevent, for the future, the very great inconvenience which has occurred from the natives of India not having appointed agents in England, and from their ignorance of the steps which they ought to take in England when they appeal to the King in Council, that the East India Company should appoint in England one of the civil servants, who is thoroughly acquainted with the proceedings of the zillah, provincial and sudder adawlut courts, under the three presidencies of Bombay, Madras and Calcutta, whose duty it shall be, acting under instructions, to take care that all cases of appeal from the three above courts to the King in Council, in which natives of India are appellants and appellees, shall, provided the parties themselves shall not have appointed agents to act for them in England, be immediately brought forward before the King in Council, and be dealt with by them as the circumstances of the case may require.

Although what has been said applies more immediately to the Cape of Good Hope, the Isle of France, Ceylon, and the East India Company's possessions in India, the plan which has been proposed is just as applicable to the British colonies in North America, the West Indies, Trinidad, St. Lucia, Demerara and Berbice. The cases which are appealed from the West Indies being mostly cases of equity, those from North America and St. Lucia cases either of the ancient or of the more modern French law, those from Trinidad of the Spanish law, and those from Demerara and Berbice of the Dutch law, and therefore as much within the knowledge of those judges who have been alluded to, as the cases which come from the colonies, with which they have been more immediately connected.

We understand that in consequence of the suggestions contained in this paper, Mr. Clarke, of the Madras civil service, has been employed for some time by the Court of Directors, to prepare the whole of the Indian appeal cases so long in arrear before the Privy Council, for the consideration of the Privy Council, and that most, if not the whole of them, having been so prepared, Sir Alexander, about a year ago, submitted to Government the following

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plan, the object of which is, by means of the Indian judges who are retired to this country upon their pensions, not only to get rid of, without any additional expense to the public, and without any delay whatever, all such cases as are now in arrear, but also to prevent for the future all arrear in such cases, and to enable the British Government and the British Parliament to become thoroughly acquainted with all those systems of local laws which prevail amongst the different classes of natives in India, and which form the laws according to which the courts in India, as well as the Privy Council, are bound to decide all cases in which their property and their interest are directly concerned.

1st. That the Government do forthwith appoint a certain number of the Indian judges who are retired in England upon their pensions, to act either as members of the Privy Council, or as assessors to the Privy Council, in hearing and deciding upon all cases in appeal from any of the courts established in the East India Company's territories in India, on the island of Ceylon, on the Mauritius, and at the Cape of Good Hope.

2d. That these judges do forthwith draw up, in communication with the Lord Chancellor, the President of the Council, and the President of the Board of Control, such rules and orders as may enable the Privy Council to decide upon, without delay, the appeal cases from India, which have been so long pending, and to hear and to decide, as soon as they come before them, all future appeals from India.

3d. That they sit, from day to day, till they have got rid of all the appeals from India which are now pending.

4th. That one of them shall always be in attendance at the office of the Privy Council, and shall report to the Council, as soon as any appeal arrives from India, the nature of such appeal, and the steps which it may be necessary to take for the immediate hearing and decision of that appeal.

5th. That they forthwith draw up, for the information of the Council and the public, a full statement and explanation of the history and nature of the different systems of law which prevail amongst the inhabitants of British India, of the Island of Ceylon, of the Mauritius, and of the Cape of Good Hope; and amongst all the natives of Africa, Arabia and Asia, who navigate the Indian Ocean and the adjoining seas, and who trade with any part of the coast of Malabar and Coromandel, and with any part of the coasts of Ceylon, and the Mauritius, and Cape of Good Hope.

6th. As the specific grounds upon which the King in Council form their judgment in cases of appeal from India, ought, as soon as possible after that judgment has been given officially, to be made known to all the natives of India who are subject to the British courts in India, a printed copy of the published report of each case be officially sent by the Court of Directors to every sudder adawlut, provincial and zillah court, in India, with a positive order that such a report shall be forthwith, under the superintendence of the court, translated into each of the country languages which are in the most common use in the province in which the court is stationed, and publicly read and explained by an officer of the court to the natives of the country, in such a manner as the grounds of the decision of the King in Council being once understood by the natives themselves, may prevent them in future from incurring the unnecessary expense and delay of an appeal upon any point of law upon which the King in Council may have already given their opinion.

(E.)

A PAPER containing the Plan adopted by Sir Alexander Johnston on Ceylon, for collecting Materials for framing a Hindoo and Mahomedan Code, for the use of the Hindoo and Mahomedan Natives of that Island.

At a Council held at the King's House, 31st December 1811;

Present,—His Honour the Lieutenant Governor, the Honourable the Chief Justice and President of His Majesty's Council, the Honourable the Puisne Justice, the Honourable the Chief Secretary to Government, the Honourable the Commissioner of Revenues;

AN extract of a letter from the Earl of Liverpool to his Excellency the Governor of these settlements is read; communicating his Royal Highness the Prince Regent's pleasure, that all the different classes of people who inhabit the British settlements on the island should be governed as nearly as circumstances will admit, according to their ancient customs, and that the Chief Justice do prepare for their use a short and simple code of laws founded upon those customs, and divested of all technical languages.

The Chief Justice and President of his Majesty's Council thereupon submits to the Lieutenant Governor in Council the following as the plan which he intends to adopt, should it meet with their approbation for carrying into effect the wise and benevolent object which his Royal Highness has in view:—

1st. The Chief Justice will, with the concurrence of his Honour the Lieutenant Governor, immediately select a certain number of persons from each district to report to him upon

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the nature of the laws and customs which at present prevail in the different parts of this island, and to point out to him such alterations in them as they may think expedient.

2d. The persons whom the Chief Justice will select for this purpose will be such only as are the most distinguished in their respective districts for their integrity and good conduct, as well as for their thorough knowledge of the religion, customs, habits and local interests of the people.

3d. As soon as the Chief Justice shall have received the reports from the several districts, he will draw up from the information contained in them, such a code of laws as the Prince Regent has commanded.

4th. The Chief Justice will cause a Dutch, Portuguese, Cingalese and Tamul translation of this code to be publicly exhibited for one year in each district, in order that every one of His Majesty's subjects in these settlements may have the fullest opportunity of considering the code, and making such objections to it as may occur to them.

5th. The Chief Justice having thus taken the sense of His Majesty's subjects upon the code, and made such alterations in it as the further information he shall have received in the course of the year may have rendered necessary, will then submit it for the consideration of the Governor in Council in order that they may forward it to his Royal Highness the Prince Regent for his royal approbation.

The above plan being fully approved of by all the members of Council, the Lieutenant Governor in Council orders that it be published, together with the proceedings held thereon, for the information of His Majesty's subjects on this island.

(F.)

COPY of a LETTER from the Right Honourable *C. Grant*, to Sir *Alexander Johnston.*

Sir, India Board, 29th March 1832.

I TAKE leave to address you on a subject, the importance of which will, I trust, sufficiently apologize for requesting your attention, and, if you please to give it, your assistance in bringing it to a satisfactory settlement.

The Board have had, for some time, under their consideration the state of the outstanding appeals to the King in Council from the Sudder Courts in India.

On the 22d February 1831, a letter was addressed by the Court of Directors to the Indian governments, desiring to know their sentiments on the best course to be pursued; and especially in reference to a suggestion that counsel should be appointed for both parties in this country, by the Court of Directors, to carry on the appeals to a decision. The Court particularly wished to ascertain in what light such a measure (to be tried in the first instance experimentally) was likely to be received by the natives of India.

Answers have been received from Madras and Bombay.

No answer as has yet been received from the Bengal government; but the Board are strongly impressed with the necessity of some efficient measure being resorted to for clearing off those appeals, and for the disposal of such as may hereafter be preferred.

A memorandum on the subject has, at my request, been prepared by Mr. Richard Clarke, a gentleman who, from particular circumstances, is minutely informed of the situation of these outstanding appeals. In order to assist their judgment as to the best mode of proceeding, the Board are desirous of submitting these papers to some gentlemen of general ability and information, as well as of local experience, requesting them to consider the subject in all its parts, and to report to the Board their opinion and observations.

Presuming that you may not feel disinclined to afford your valuable aid to the Board in their deliberations on this important subject, I take the liberty of mentioning that the other gentlemen whom I address on this occasion are Sir Edward Hyde East and Sir James Mackintosh, and I should be happy to know if you will consent to meet them at such times as may be agreed upon, in order to carry into effect the object in question.

I have the honour to be Sir,
Your obedient humble Servant,
C. Grant.

COPY of Sir *A. Johnston's* Answer to the Right Honourable *Charles Grant.*

Sir, 19, Great Cumberland Place, 30th March 1832.

I HAVE the honour to acknowledge the receipt of your letter of this morning, and beg leave to assure you that I shall be most happy to afford the Board any aid in my power in attaining the important object which you have in view with respect to the appeals from India, and that I shall be ready to meet Sir Edward Hyde East and Sir James Mackintosh at any time you may appoint.

My attention has been long directed to the proceedings of the Sudder Adawlut Courts of Bombay, Madras and Calcutta, and to those of His Majesty's Privy Council in this country as a court of appeal from those courts.

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In consequence of a request made to me by the late Marquess of Londonderry, while I was Chief Justice and President of his Majesty's Council in Ceylon, I gave the subject in all its bearings the most deliberate consideration: I made two journies by land from Cape Comoreen to Madras and back again, for the purpose of becoming thoroughly acquainted by local observation with the proceedings in the Zilla, Provincial and Sudder Adawlut Courts under the Presidency of Madras. I examined while in England in 1809 and 1810, with the assistance of the late Mr. Chalmers, the then clerk of the Council, all the proceedings which had taken place, and all the orders which had been made in every case of appeal from the colonies to the Privy Council, from the reign of King William down to that period.

In 1822, I gave the Marquess of Londonderry at his request a paper, of which No. 1 is a copy, containing my opinion as to the improvements which ought to be introduced into the system of administering justice in the territories under the Presidency of Madras, and also as to the measures which ought to be adopted for rendering the Privy Council an efficient court of appeal, in cases appealed from the Courts of Sudder Adawlut at Madras, Bombay and Calcutta.

In consequence of Lord Londonderry's death, no steps were taken upon the subject at that time; and in order again to call the attention of the Board of Control, and his Majesty's Ministers to a question of so much importance, I drew up the paper, of which No. 2 is a copy, in 1826; gave copies of it to Mr. Wynn, the then President of the Board of Control, to Sir Robert Peel, the then Secretary of State for the Home Department, and to Mr. Wilmot Horton, the then Under Secretary of State for the Colonies, and suggested to Lord Lansdown the propriety of moving in the House of Lords, as he subsequently did, for a return of all the cases of appeal in arrear from India. In that paper I proposed, as you will perceive, that the Court of Directors should appoint one of their civil servants acquainted with the proceedings of their courts in India to arrange all the papers connected with the appeals from the Sudder Adawluts then pending before the King in Council. I shortly afterwards explained my ideas upon the subject to Mr. Richard Clark, a civil servant of the Madras establishment, with whom I had been long acquainted, and, conceiving him to be fully qualified for the purpose, advised him to offer to the Court of Directors to undertake the service to which I allude, and mentioned him to Mr. Wynn as the fittest person the court could appoint.

In consequence of my advice, a communication was opened between the Privy Council and the Court of Directors through the Board of Control upon the occasion. Mr. Clark was examined before the Privy Council. I had a great many interviews with the Company's solicitor, Mr Lawford, upon the subject, and the result of all these different steps has been to enable Mr. Clark to examine and to arrange all the papers connected with these appeals in such a manner as will render it very easy for Sir Edward H. East, Sir James Mackintosh and myself whenever we meet to propose to the Board such a plan as may enable the Privy Council to take steps for bringing those cases which have been so long in arrear to a speedy decision, and for preventing the occurrence of any unnecessary delay in future.

I have the honour to be, Sir,
Your most obedient humble Servant,
A. J.

COPY of the Joint-Opinion of the Right Honourable Sir *J. Mackintosh,* the Right Honourable Sir *E. H. East,* and Sir *Alexander Johnston.*

WE, the Right honourable Sir James Mackintosh, the Right honourable Sir Edward Hyde East, and Sir Alexander Johnston, at the request of Mr. Grant, have taken into our serious consideration the important case which relates to the almost total failure of the appellate jurisdiction of the Company's courts in India to the King in Council. This jurisdiction has now existed for more than 40 years, and during that time, in which about 50 appeals have been entered, only three have been brought before the Council in a condition which rendered it possible to give judgment upon them; and therefore no part of this failure is attributable to delays in the court of appellate jurisdiction.

We abstain from offering any opinion upon the general convenience of all appellate jurisdiction in this country over the Company's courts, not considering the extended view of the subject as intended to be submitted to our consideration.

It seems that neither the utmost diligence on the part of the Privy Council, nor the wisest constitution of that tribunal could abate the evil, so long as the Council are confined within their ordinary judicial duties. It has been suggested to us, that the principal cause of failure in the appellate jurisdiction from the Company's courts, is the ignorance of the natives in India of the measures necessary to give effect to an appeal, and that their ignorance in this respect is the more excusable, because the Company's courts of appeal in India, as we have been informed, always entertain and proceed upon an appeal from the inferior jurisdiction as soon as the record is lodged in their custody, without waiting for any further steps to be taken by either respondent or appellant.

Perhaps as the evil has arisen from a want of due provision in our laws, it would be improper to strike out appeals which have been long on the list, without giving notice to the parties that their interests may be defended at the bar of the Privy Council by those in whom they repose the greatest confidence. As it seems probable that in so long a period

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a period many of the parties must have died, it would have become necessary in the case of all long-standing causes, to grant time to the parties in India to take care of interests which may be important to them.

Would not that be sufficiently provided for by directing that notices of all causes now in appeal should be sent to the several Sudder Dewanny Adawluts, with due warning, that unless they were prosecuted to the stage of judgment within two years, they should be deemed and taken to be dropped appeals, and struck out of the list accordingly?

The care of widely dispersing these notices, so as to reach every part of the country, could only be entrusted with perfect propriety to the several Sudder Dewanny courts out of which the records come. But it is impossible to doubt that appeals are in all countries frequently brought for the mere purpose of delaying the payment of just debts, and this grievance, as far as it exists, would be particularly vexatious in India, where the distance of place necessarily consumes so much time before the cause can be brought to a hearing at home. It should seem, therefore, that it would be essential to fix a time when all future appeals should, upon non-prosecution of six months after they are lodged in the Privy Council Office, without special cause assigned, be deemed to be dropped.

It would also be a measure of much remedial justice if the Privy Council were to be invested with a power of granting double or treble costs, in cases where the appeal may be manifestly intended for delay, and necessarily attended with great vexation to the opposite parties.

There are other matters of secondary importance which admit of easier remedy. At present, in Bengal, no appeal can be brought where the amount in dispute is not 5,000*l.* or upwards. There is no limitation at the other Presidencies. According to the views which we have taken of the undue advantage given to the rich by such distant and costly appeals, it seems to us that the judgment of all the Company's courts in India should be raised to the same appealable amount with those of Bengal. Most of these regulations might probably be carried into execution by Orders in Council; but with respect to the power of costs, and the amount of the appealable sum, they might probably be thought to require Parliamentary measures, which in that case would only be settled in conferences between the President and the members of the Cabinet.

If any Parliamentary measure be adopted, a power might well be given to the courts in India to receive and record any compromise of a suit between the parties, notwithstanding the pendency of an appeal, and to transmit a judicial certificate thereof to the appellant court.

It would be a very wholesome provision if the Privy Council were to direct the Company's courts in India to strip the records of needless verbosity, and to reduce them as far as possible to what lawyers in England would call issueable points. It is not intended to say that the huge masses of papers such as are now sent should not continue to be sent, in order that they might be examined, in case of necessity, with a searching eye by all those who took a special interest in a cause, and in order also that the fidelity of the abridgement might in all cases be easily ascertained. It must be owned, however, that as things now are, their immense magnitude, besides greatly enhancing the expense, much more tends to impede due examination of them than to promote it.

It is clear that appeals should not be made against judgments, orders, or decrees of an interlocutory nature, unless the applicant shall enter upon the record a suggestion that such judgment, &c. concludes the general justice of the case, and that he waives making any further appeal in the cause, if that judgment, &c. be confirmed against him.

(signed) *J. Mackintosh,*
E. H. East,
Alex^r Johnston.

COPY of a LETTER from Sir *Alexander Johnston* to the Right Honourable *Charles Grant.*

Sir, 19, Great Cumberland-place, 7th May 1832.

Sir Edward H. East, Sir James Mackintosh and I, had the honour on the 4th instant to send you, in answer to your letter of the 29th of March, our joint opinion upon some of the points which you had referred to us, relative to the appeals which are brought from the courts of Sudder Adawlut in India to the Privy Council in this country.

I have now the honour, in consequence of the conversation which I had with you this forenoon, to enclose you a statement of the different measures which Mr. Clark and I think necessary to enable the Privy Council to hear and decide the 50 cases of East India appeals which have been so long pending before the King in Council, but which, owing to the zeal and promptitude with which you have taken up the question, may now be expected to be brought to a conclusion without any more delay.

Allow me to add, in allusion to the very flattering terms in which you have done me the honour to ask my opinion upon the occasion, that receiving as I do the pension of a retired Indian judge, I shall always feel it to be a public duty which I owe to my country to co-operate in any way in which my services may be required in hearing and determining all the Indian cases which are now in arrear.

I should not presume to think that my services could be of any use in such a proceeding unless my attention had been particularly called to the subject from the year 1819 to the present period, in consequence of a reference which was then made to me by the late Lord Londonderry, and in consequence of my having been, during the whole 12 years I was Chief

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9 July 1832.

Justice and President of His Majesty's Council on Ceylon, *ex officio* First Member of the High Court of Appeal on that island, which court has the same appellate jurisdiction over all the inferior courts on the island as the several courts of Sudder Adawlut at the different Presidencies on the continent of India have over all the inferior courts in their respective Presidencies, and which court proceeds according to the same rules, regulates its decisions according to the same codes of Mahomedan and Hindoo law, and administers justice amongst natives of the same religious persuasion as the Courts of Sudder Adawlut do within those Presidencies.

I have the honour to be, Sir,
Your most obedient and faithful servant,
Alex^r Johnston.

Bengal, XVI. of 1797. Madras, VIII. of 1818. Bombay, IV. of 1827, ch 23.

IT appears that under the operation of certain Regulations of the Indian governments, a great number of appeals from decisions of the Courts of Sudder Adawlut (or courts of the highest jurisdiction, established by the East India Company, for the administration of justice to the natives of India residing in the provinces, and not amenable to the jurisdiction of the King's Supreme Courts of Judicature) have from time to time been transmitted to England, the earliest of which bears date in 1799; and that, with very few exceptions, they have not been prosecuted by the appellants in the usual mode in which appeals are prosecuted before the King in Council, neither have the respondents taken any steps to have them dismissed for non-prosecution; and it further appears, that in some cases the parties have compromised their suits subsequently to the arrival of their appeals in England, and have transmitted duly attested notice of such compromises in the same way in which the appeals were transmitted; and that as no orders have been issued by the Privy Council upon such references, the parties who have so compromised, and their sureties, are not released from their responsibility, nor are all their deposits and securities returned to them; because, as stated in the proceedings of the courts abroad, the appeals are considered as being lodged and depending before His Majesty in Council, without whose final orders such relief cannot be afforded to the suitors.

It appears that the right of appeal from the Sudder Dewanny Adawlut at Calcutta was limited by the 21 Geo. 3, c. 70, s. 21, to cases in which the sum in issue is not less than 5,000 *l.*; and that in pursuance of such limitation a Regulation was enacted by the Bengal government in the year 1797, prescribing the rules under which applications should be made by suitors for leave to appeal to the King in Council, and all other measures should be taken for the furtherance of the appeals, and of all documents necessary for the information of the King in Council; such Regulation, however, distinctly declaring the reservation to His Majesty of his right to exercise his full and unqualified pleasure in the rejection or admission of appeals, notwithstanding any rules in the said Regulation. But the Act above referred to not having prescribed any limit to the right of appeal from the decisions of the highest Company's courts at Madras and Bombay, a different course was adopted at those Presidencies. By Regulation V. of 1802, enacted by the Government of the former Presidency, provision was made for an appeal from the judgments of the Sudder Adawlut at Madras to the *Governor General* in Council at Calcutta; and it is understood, that for several years subsequently to the date of that Regulation appeals were preferred accordingly, and that the Governor General in Council, on the receipt of the records of appeal (which were prepared and transmitted to him in like manner, and under similar rules to those which now govern the transmission of appeals to His Majesty in Council from that Presidency) used to issue his final orders or decrees on such appeals, and forward the same to Madras, to be there carried into execution. The Governor General in Council, however, having subsequently "relinquished the authority exercised by him" with regard to such appeals, the previous Regulation was repealed, and a new Regulation was enacted, which is now in force, and under which the appeals from that Presidency, now in England and unproceeded in, have been transmitted. At Bombay a Regulation was passed in 1812, containing the like provisions as that passed in Bengal for the admission of appeals, in such cases only as amounted to 5,000 *l.*, although no limitation of the right of appeal from Bombay had been imposed by Act of Parliament. This Regulation, however, was was very soon rescinded by Regulation XI. of 1813, and no rules appear to have existed for the admission, at that Presidency, of appeals to the King in Council until the passing of Regulation V. of 1818, which is similar in its provisions to the Madras Regulation VIII. of the same year, providing for all Acts necessary to be done *in India* for the presentation and admission of an appeal, and for the transmission of an authentic record of all proceedings, evidence, &c. for the information of the Privy Council; and likewise for the delivery of security, as well for the fulfilment of the eventual decree of His Majesty in Council, as for the payment of all costs that might be incurred in the prosecution of such appeals. When the Regulations of the Bombay Government were re-enacted in an improved form in 1827, rules similar in effect to those of 1812 were enacted in Regulation IV. c. 23; and it was there declared, that "the decrees of the King in Council, when duly certified, should be enforced, under the directions of the Sudder Dewanny Adawlut, by the judge of the zillah in which the suit was originally tried in the same manner as those of his own court." In all the Regulations above noticed the directions to the suitors are necessarily confined to such acts as were under the control of the Indian courts, and could not extend to measures which should be adopted in England, nor fix any

Madras, Reg. V. of 1802, s. 33, *et seq.* Reg. VIII. of 1818.

Madras, Reg. VIII. 1818. Bombay Reg. IV. 1812

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any limit of time for finally disposing of the suits in the event of the parties not moving in them by the agency of representatives in England.

It appears that to each of the records of appeal which have been received in England from the Sudder Adawluts in India is prefixed a certificate under the seal of the court, and the signature of the registrar, declaring it to contain authentic and correct copies of the orders, judgments, evidence and other documents in the case, prepared for submission to the King in Council; and it further appears that the said records have all been forwarded by the local governments to the Court of Directors of the East India Company, by whom they have been lodged or deposited in the office of the Privy Council, and that those records are intended for the sole use of the Privy Council, and not for the use of the suitors or their agents; and it further appears, from correspondence between the Court of Directors of the East India Company and their governments abroad and from proceedings of the Courts of Sudder Dewanny Adawlut, accompanying the references in compromised suits, that the reception of those records in England is deemed by the authorities abroad to be virtually a lodging of the said appeal before His Majesty in Council, whose orders thereon are looked for; and that without such orders Courts abroad do not consider themselves authorized to dispose, finally, of any case that has been so appealed, and to restore deposits, and deliver up securities; adverting to what is understood to have been the practice in cases of appeal from the Sudder Adawlut at Madras to the Governor General in Council previously to 1818, such expectation seems grounded on the former practice in India in that respect.

Referring to the peculiar condition of the natives of India, for whom a system of administration of justice has been provided, under legislative sanction, by the East India Company, and to the incompetency of the courts or governments abroad to promulgate any rules regarding the course of proceeding in England, or to authorize the dismissal of suits for non-prosecution or otherwise, unless such rules shall have first received the sanction of the Privy Council; and it being necessary that such rules should be made and duly notified by regulations to be promulgated at the Presidencies in India, and that provision should be made for giving due effect in England to such rules, so that the present accumulation of arrears may be finally disposed of, with due regard to the interests and rights of the suitors, the following provisional measures are proposed:

All the appeals and proceedings received from the Courts of Sudder Adawlut, through the Court of Directors of the East India Company, shall be referred to a Committee of His Majesty's most honourable Privy Council, who shall meet as often as may be required, and who shall prepare such orders, judgments or decrees as the exigency of each case may require, to be submitted to His Majesty in Council for his confirmation and approval; notice of such reference shall be communicated to the Courts of Sudder Adawlut in India for the information of the suitors.

All appeals transmitted to England by the Courts of Sudder Dewanny Adawlut at the several Presidencies under the Regulations of the Indian governments, and received in this country before the 31st December 1831, and which shall not be proceeded in by the appellants before the 31st December 1833, shall be dismissed.

An officer to be called Registrar of Adawlut Appeals shall be attached to the Committee until the present accumulation of appeals shall have been disposed of, or until some permanent arrangement regarding appeals from the Courts of Sudder Dewanny Adawlut to His Majesty in Council shall be made,

The duties of that officer shall be as follows:—To have the care of the records and other documents transmitted from the Sudder Adawluts in India for the purpose of being laid before His Majesty in Council, and to keep a register of them according to their dates; to make such communications to the Sudder Adawlut Courts as the Committee of the Privy Council shall direct.

To prepare from each "record" a list of all the papers forming the collection so termed, exhibiting briefly the subject of each paper, number or document, for the better enabling the Committee to refer to the record; and also to prepare a glossary of all Indian terms used in each case.

To carry into effect the rules which may be passed for the direction of the parties, and the due order of proceeding in regard to the Adawlut appeal; to provide professional assistance for the parties when authorized so to do by a power from the suitors in India, and to keep a regular account of all monies expended on their behalf out of the deposits to be made by them in India, and to transmit copies of such accounts for audit to the proper officer of the East India House before transmission to India.

The appellants in India shall be required by a Regulation, to be promulgated at each Presidency, to notify, within a term to be specified, whether it is their intention to proceed with their suits; and if such be their intention, they shall be required to state to the court of the zillah within which they reside, within a certain time, the name and address of the person who will be authorized to be their agent in England for conducting the said suit. The appellants shall be at the same time informed that they may, if they desire it, appoint the registrar of Adawlut appeals to be such agent, so far as to appoint counsel in their behalf, and to pay all expenses attendant on the prosecution of the appeal, provided they severally deposit in the treasury of the Presidency to which they belong a sum not less than 1,000*l.*, to be drawn out as required for the payment of the appeal, on vouchers to be delivered to the auditor of accounts at the East India House. All suits in which the appellants shall not either appoint an agent of their own, or authorize the registrar of Adawlut appeals to act for them as above, in three months from the date of the notice served upon them

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them, shall, on certificate from the Sudder Adawlut of due service of such notice and of failure to obey the same, be dismissed.

Like notice shall be given to the respondents, with like option of empowering the registrar of Adawlut appeals to appoint counsel on their behalf; and on certificate from the Sudder Adawlut of due service of such notice, and of no agent having been appointed, the appeal shall be heard *ex parte*, on application to that effect by the representative of the appellant.

In all applications for leave to appeal which may be presented after the receipt of these orders by the Sudder Adawlut Courts in India, the appellants shall be required, besides the previous conditions which they are now called upon to fulfil, and deposits now required, to state the name and address of the person who is to act as agent for the appeal in England, or to authorize the registrar of Adawlut appeals to appoint counsel for them on their making the deposit for the expenses to be incurred; and no appeal shall be admitted by a Court of Sudder Adawlut unless such nomination of a representative be made by the appellant.

The substance of the foregoing rules shall be duly promulgated in the several Presidencies in India by Regulations drawn out in the prescribed form, and declaring in the preamble that the said rules have the sanction of His Majesty's most honourable Privy Council.

(G).

The Copy of a LETTER from the Abbé *Dubois* to Sir *Alexander Johnston*, giving him an an Account of the present condition of the Native Catholics throughout India.

King-street, Portman Square,
London, 21st May 1831.

Dear Honourable Sir,

IN the last interview I had the honour to have with you, you appeared anxious to have a short sketch of the Christian missions in Asia. I will endeavour to comply with your wishes, as far as my inquiries on the subject, during my long residence in India, enable me to do.

The whole of the Christian converts in Asia, during the three last centuries, by the Jesuits and their successors, do not amount, at the present time, to more than twelve or thirteen hundred thousand, if we except those made by the Spanish missionaries, on the Phillippine Islands, which, from all accounts, amounts to about two millions, among the natives of those Islands. Of the twelve or thirteen hundred thousand converts on the Continent of Asia, India contains one half that number, under the superintendence of four titular bishops, and three bishops *in partibus*, with the titles of Apostolical Vicars. The four titular bishops are, the Archbishop of Goa, (the metropolitan of India,) and the Bishops of Cranganore, Cochin, and Malayapore, (St. Thomé, near Madras). The three apostolical vicars, who reside, one at Bombay, another at Verapoly, on the Malabar coast, and the third at Pondicherry, are immediately appointed by the Pope, without the interference of any temporal power. The two former are Italian Carmelite Friars, the latter is a Frenchman, and has the superintendence over the French mission in the Carnatic and Mysore.

Each bishop and apostolic vicar has a district assigned to him by the Holy See. The Archbishop of Goa has under his spiritual jurisdiction the most numerous congregations. It is he who directs all the Catholics in the Island of Ceylon, whose aggregate number amounts to at least 120,000. He has also under his spiritual sway, the great number of congregations disseminated on the Malabar coast, from Tellicherry and Mangalore to Goa, inclusively, and containing at least 150,000 Catholic Christians. Next to Goa, the most numerous mission is that of the Apostolical Vicar at Verapoly, near Cochin, who reckons 130,000 converts, partly of the Syriac, partly of the Latin rite; the former are converts made by the ancient Jesuits, of the Syrians of the Nestorian sect, established from immemorial time in the Travancore, and having still many congregations of that persuasion who steadfastly adhere to the doctrines of Nestorious; whose principal error consisted in admitting two persons in Christ. They, however, admit the seven sacraments, as the Roman-catholics, purgatory, invocation of saints, &c. but altogether reject the worship of images *. Those who are become converts to Catholicism have preserved the ancient *Syriac*, or *Chaldeo-Syriac*; and their liturgy is in that language, which their priests learn merely to read in order to be able to perform their religious ceremony, without understanding it, having no professors to teach them, and in general their native priests are very ignorant. The Bishop of Cochin has about 45,000 Christian natives under his spiritual sway; his jurisdiction extends from Cochin and Tuttacorin, along the coast to Nejapatam. His congregations along that tract of country are numerous, and are chiefly composed of fishermen, known under the name of Paravas, who boast and pride themselves on being the offspring of the converts made three centuries ago by the celebrated Jesuit St. Francis Xavier. The Bishop of Cranganore exercises his spiritual power in a part of the Travancore

* By worship of images is meant nothing more than respect and veneration for the holy persons represented by them.

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core country, and in the province of Marava and Madura; he reckons 36,000 converts of several castes. Among his flock there are many thousands of those professional robbers called Colliers, who chiefly inhabit the Marava district. The Apostolical Vicar of Bombay, an Italian Carmelite friar, has the poorest mission in India; his flock does not amount to above 10,000 or 12,000 converts. The French mission entertained by the *Seminaire des Missions Etrangères*, in Paris, is composed of a French Apostolical Vicar, appointed by the Pope; his residence is at Pondicherry, and he is assisted by two French missionaries, scattered over the Carnatic and Mysore countries. The number of Christians under their charge amounts to at least 40,000. The Portuguese Bishop of St. Thomé's, near Madras, exercises his jurisdiction in the Tanjore country, where there are about 12,000 native converts; and all along the coast from Negapatam, to Calcutta, there are found several congregations, chiefly consisting of that class of people calling themselves the offspring of the ancient Portuguese. Such is, Sir, the short analysis of the state of the Catholics in India I can give you; and such are the remainders of those once flourishing congregations, founded by the Jesuits, amounting, 80 years ago, to 2,000,000. Since that period, and chiefly since the extinction of the order of the Jesuits, the affairs of Christianity on the Peninsula, owing to many causes, which it would be too long to enumerate, have been visibly on the decline, and, in my opinion, will continue to be so.

I will now say a few words about the Christian sects from the Catholic Church, which have also formed religious establishments on the Peninsula. The most ancient are the Nestorians, established in Travancore, styling themselves the Christians of St. Thomé's; a claim without foundation, it being well known that their patriarch and founder, *Nestorius*, Bishop of Constantinople, lived in the fifth century: most of them were, as already mentioned, converted to the Catholic faith by the ancient Jesuits, but a great many remained, and still remain, steadfastly attached to Nestorianism, and form several congregations, amounting in all to about 20,000.

There are also congregations of Protestants, of several sects; the most flourishing are those of the Calvinistic persuasion, established in the Island of Ceylon, amounting, it is said, to about 60,000, chiefly composed of Catholic converts, who turned Calvinists during the long persecution exercised by the Dutch against Catholicism; a persecution which lasted, in a great degree, until the time when, by your benevolent and persevering interference, you succeeded to obtain the full emancipation of the Catholics, and to remove all the civil incapacities which weighed on them on account of their religion; a favour, whose remembrance shall be handed down from generation to generation, among the Catholic population of the island, with senses of the liveliest gratitude. From the Peninsula of India let us pass over to the countries beyond the Ganges.

There is a mission of Italian Barnabite Friars, established more than a century ago in Pegu, having to attend to the five congregations at Rangoon, and some other parts of the country, an apostolical vicar, and three or four missionaries. That mission, owing to the civil wars which at all times raged in the country, and to other causes, was at no time prosperous, and at present reckoned only about 8,000 converts.

The *Seminaire des Missions Etrangères*, in Paris, has entertained, during these last 150 years, a mission in the kingdom of Siam, which at present consists of a bishop, apostolical vicar, and six French missionaries; the residence of the bishop is at Bancock, and the missionaries attend the congregations scattered over the country. The number of converts was once considerable; but, owing to the continual foreign and civil wars which have not ceased to exist in the country, their number is at present reduced to about 10,000 or 12,000. The most flourishing mission under the charge of the *Seminaire des Missions Etrangères* is that of Tonking, where we reckon at least 160,000 converts, attended by a bishop, and an apostolical vicar, 10 French missionaries, and 60 native priests, properly educated by two French missionaries, delegated for that purpose. The Spanish mission, in the same country, is no less flourishing than the French one; thus, the aggregate number of Tonkinese converts amounts to about 300,000 souls. Next comes the mission of Cochin-China and Cambodia, including at least from 70,000 to 80,000 converts, attended by a bishop, vicar apostolic, nine or ten French missionaries, and about 25 native priests, educated by the missionaries.

Finally, the *Seminaire des Missions Etrangères* entertains a mission in the interior of China. In the province of Futchneu, there are to be found about 50,000 Chinese converts, attended by a French bishop, six or seven missionaries, and 22 or 24 Chinese priests. The Portuguese, Spaniards and Italians, have also established missionaries in several provinces of the Empire, many of which go on well, and the aggregate amount of the Chinese converts does not fall short of 200,000. However, as the Christian religion is proscribed by the laws of the empire, and the ingress of foreigners into the interior forbidden under pain of death, the missionaries are introduced by trusty converts with the greatest caution, at the risk of their lives for the introducer and the introduced; and even after their safe arrival in their missions they are obliged to live hidden, and to use a continual vigilance not to be discovered. If they are discovered, and given up to the Mandarins, they are judged and sentenced to death, or to perpetual exile in Tartary, ordinarily to Eli. They are, however, sometimes redeemed by giving heavy bribes to the Mandarins.

The *Seminaire des Missions Etrangères* sends every year a certain number of young missionaries to Macao, where we have an agent, a French missionary, well acquainted with the localities; whose charge is to receive the missionaries we send, keep the correspondence between our Missions and the Seminaire of Paris, receive and shelter the couriers which are sent once a year by the apostolic vicar, to accompany and introduce the missionaries

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newly arrived from Europe, send to the several missions the small sums of money, and other articles destined for each one, &c. &c.

The *Seminaire des Missions Etrangères*, founded two centuries ago, is directed by four members, who have passed at least two years in one of our foreign missions. I am one of the four. I have been deputed by my associates to this country, to keep the correspondence of the missions, receive the letters which arrive at this season by the return of the East India Company's ships from Canton, return answers, and execute the commissions of the missionaries; the agitated state of France not allowing us a safe medium of correspondence at the present time.

Such is, honourable sir, the short analysis I can give you of our mission, a more extensive account would prove tedious. I regret much that my leisure does not allow me to make a more neat, and a little better worded copy: this, as you will perceive, has been made with much haste, for which I beg to be excused.

I have the honour to be, dear honourable Sir, your very obedient Servant,

The Abbé *J. A. Dubois.*

(H.)

THE Copy of a Plan for framing a Maritime Code for the use of all the different Natives of Asia who Navigate the Indian Seas, and who Trade with the several British Possessions in India.

AS the East India Company's charter will soon expire, and as the Legislature of Great Britain will then be called upon to decide whether a royal government shall be established over the British territories in India, it is advisable that His Majesty's Government should take into their serious consideration every subject which is connected with the maritime and commercial prosperity of that immense empire.

There is no subject which is of more importance, both in time of peace and in time of war, to the maritime and commercial prosperity of Great Britain and India, than that which relates to the situation, the regulations, and the proceedings of the several Vice-Admiralty jurisdictions which have from time to time been established, as well in the East India Company's settlements at Bombay, Madras, Calcutta and Penang, as in the King's settlements at the Cape, the Isle of France, Ceylon and New South Wales.

Of these eight Vice-Admiralty jurisdictions, the four first were, in consequence of their being situated in the East India Company's settlements, established by several Acts of the Parliament of Great Britain; and the four last were, in consequence of their being situated in King's settlements, established by several orders of the King in Council.

Although there is a difference between the four first and the four last jurisdictions, as to the authority by which they were originally established, there is no difference whatever between them either as to the appointment of their judges, the nature of their jurisdiction, the forms and rules of their proceedings, the laws and usages according to which they decide, or the court in England before which their decisions are liable to be revised.

All the judges of these jurisdictions are appointed by the Lord High Admiral of England, and they all hold a commission under the great seal of the High Court of Admiralty, by which they are directed to exercise within their local limits a similar jurisdiction to the one which is exercised by that court, to proceed according to the same rules and forms as that court, to decide according to the laws and usages observed by that court, and in every case to allow of an appeal against their decisions to that court.

It is obviously the intention of the King and Parliament of Great Britain that these jurisdictions should, in consequence of their being so intimately connected as they are, both in time of peace and in time of war, with the maritime interests and naval superiority of Great Britain, be under the immediate control of the High Court of Admiralty and the general superintendence of the Lord High Admiral of England; and that all of them, as well those which are situated in the Company's as those which are situated in the King's settlements, should be considered as parts of the same system which Great Britain, in consequence of the extent of her territories to the east of the Cape of Good Hope, and the acknowledged superiority of her navy in the Indian seas, has felt it her duty to establish at her own expense, for the purpose in all maritime questions of administering prompt and substantial justice towards all the maritime traders and navigators of those seas, Europeans as well as natives of Asia; towards the former, according to such maritime laws and usages as prevail respectively amongst all the different Europeans who frequent those seas; towards the latter, according to such maritime laws and usages as prevail respectively amongst all the different maritime people of Asia, consisting of Arabs, Persians, Maldivians, Malays, Hindoos and Chinese, who from time immemorial have had separate maritime laws and usages of their own, and who are most materially interested, as shipowners, maritime traders, and mariners in the navigation and trade of the Indian Ocean, and of all the adjacent seas which extend from the Cape of Good Hope west, to the Philippine Islands east, and from Van Diemen's Land south, to Calcutta north.

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It is now, however, ascertained by experience that these Vice Admiralty jurisdictions, from want of sufficient local information at the time they were first established, are framed too exclusively upon the model of the High Court of Admiralty in England, and therefore that they are not so well adapted as the other King's courts in India to the local situation of the different territories, and the local circumstances of the different people for whose benefit and protection they are established.

All the nations of Asia have a right to hope that Great Britain will, in consequence of the high character for justice and the naval superiority which she has acquired throughout the Indian seas, now do, with respect to all her maritime courts in Asia, what she has already done with respect to all her other courts in that part of the world,—modify them in such a manner as to render their proceedings applicable to the local circumstances of the different countries in which they are established, and to the peculiar character, manners and feelings of the different people whose persons, property, rights and interests it is her object to protect; that she will, by collecting, printing and publishing authentic collections of all the maritime laws and usages of the different people of Asia, enable as well the judges of her maritime courts as all other persons interested in the question, to become thoroughly acquainted with all those laws and usages; and finally, that she will not only make but enforce, both in time of peace and in time of war, as well by her maritime courts as by her naval power, such regulations for the navigation and trade of those seas as are consistent with the general principles of justice, and in harmony with the different maritime laws and usages which have from time immemorial been observed by the several maritime nations of Asia.

The extent and the accuracy of the local information which has been acquired since the original establishment of these jurisdictions, will now enable the Lord High Admiral of England, should his Royal Highness think it expedient to take the subject into his consideration, to remedy without difficulty the defects which experience may have shown to be inherent in their present constitution, and to frame, from the most authentic materials, such a comprehensive and popular system for administering justice in maritime cases throughout the Indian seas, and such a comprehensive and popular code of maritime laws and usages for the security and protection of all the maritime traders, shipowners and mariners of Asia, as will not only in the present but also in future ages associate inseparably, in the minds of all the people of Asia, the idea of the justice with that of the maritime power of Great Britain. It is with this view submitted to the Lord High Admiral, that it will be advisable for his Royal Highness to order the Vice-Admiralty jurisdictions of the Cape, the Isle of France, Ceylon, New South Wales, Bombay, Madras, Calcutta and Penang, to send to the Admiralty a report upon the three following points:

1st. Upon the origin, proceedings and present state of each of the Vice-Admiralty jurisdictions which have been respectively established at Bombay, Madras, Calcutta, Bengal, the Cape, Isle of France, Ceylon, and New South Wales, and upon the nature of the different powers, civil and criminal, which are exercised by their different judges, as well in time of peace as in time of war.

2d. Upon all such general maritime laws and usages of Europe, and such particular statutes of the Parliament of Great Britain as are at present applicable to the trade and navigation in the Indian seas, both in time of peace and in time of war.

3d. Upon the several codes of maritime laws and usages which are respectively in force amongst all the different nations of Asia, who are in any way engaged in the maritime trade, or in the navigation of the Indian seas.

With reference to the first point, it is submitted that the report should, besides affording a minute detail of the rules of proceeding, of the tables of fees, and of the numbers, duties and emoluments of the officers of each court, also contain a distinct and clear view of the extent and nature of the sea coasts, of the castes and character of the mariners, of the several branches of maritime trade and of the different sorts of shipping within the local limits of each court, a description of the cases which are the most commonly brought before it, of the number and peculiarities of the cases which have been decided by it ever since its first establishment, of the number of those which have been appealed, of the amount of the expense which the several parties have incurred in consequence of each appeal, and of the time which had elapsed between the original decision given by the Vice-Admiralty Court and the final one given by the Court of Appeal.

With reference to the second point it is submitted, that the report should specify in what manner each of the maritime laws and usages of Europe, and each of the statutes of the Parliament of Great Britain which is at present considered as in force with respect to such maritime traders and navigators in the Indian seas as are natives of Asia, may have an effect upon or be in opposition to their religious and moral habits, their feelings and their prejudices, and in what manner such maritime law and usage, or such statute, may be so modified as to attain the political or commercial object for which it was made, without militating against any of those feelings or prejudices.

With reference to the third point it is submitted, that the report should contain authentic and perfect collections in the original languages of the country, and in English, of the several maritime laws and usages which prevail amongst the different nations of Asia who are engaged in the trade and navigation of the Indian seas. Sir Alexander Johnston knows, from his own experience, that such collections may be easily made, and that all the information which is required may be obtained through the different Vice-Admiralty establishments

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blishments at the Cape, Isle of France, New South Wales, Calcutta, Madras, Bombay and Prince of Wales's Island. In the course of the 16 years during which he held, under the Great Seal of England, and under that of the High Court of Admiralty, the offices of President of his Majesty's Council, Chief Justice of the Supreme Court, and Judge of the Vice-Admiralty Court in Ceylon, he felt it to be his duty repeatedly to assemble on that island some of the best informed of the natives of those parts of Asia, the inhabitants of which were the most engaged in the maritime trade and navigation of the Indian seas, and to inquire from them, not only the nature and history of all the different maritime laws and usages which were observed amongst the maritime traders and navigators of their respective countries, but also what moral, political and commercial effects each of those laws and usages had produced in their several countries, both with respect to the different persons who were subject to them and the different branches of trade to which their provisions refer.

By these means Sir A. Johnston ascertained that the different maritime laws and usages which prevail amongst the different nations of Asia, are partly of Hindoo, partly of Malay, partly of Maldivian, partly of Persian, partly of Arabian, partly of Cingalese, and partly of Chinese origin; that a few of them are derived from the laws of Rhodes, Oleron, Itisbury, and Consolato-del-Mare; some of which were introduced by the Arabs, from the Mediterranean, into the Indian seas, during the 15th and 16th centuries; and finally, that they all are at present, in consequence of no authentic and perfect copies of them ever having been printed and circulated throughout Asia, so little understood, even by those who are the most interested in their observance, as to render it both easy and common for the native arbitrators, to whom commercial and maritime questions are often referred, to misconstrue and pervert their meaning.

(I.)

A PAPER containing extracts from pages 15 and 16, of the Eleventh Report of the Directors of the African Institution, and from page 93 to page 100 of the Appendix to that Report, and giving a detailed Account of the different circumstances connected with the Resolution pased on the 15th July 1816, by all (in number 763) the Proprietors of Domestic Slaves on the Island of Ceylon, declaring free all Children who might be born of their Slaves after the 12th August 1816.

IT is with feelings of the most lively satisfaction, that the Directors of the African Institution have now to state, that the benevolent exertions of Sir Alexander Johnston, the Chief Justice of the island of Ceylon, for a period of ten years, to induce the proprietors of slaves in that island to fix a day after which all the children born of their slaves should be considered as free, have at length been crowned with success. Early in the month of July last, that liberal and enlightened judge addressed himself upon this subject to the principal proprietors of slaves at Colombo who were upon the list of special jurymen for that province. The proposal contained in the Chief Justice's letter was well received by these gentlemen; and at a general meeting which they called, to take it into consideration, they unanimously resolved, that all children born of their slaves after the 12th of August last should be free. That day was fixed upon by them, at the suggestion of Sir Alexander Johnston, in honour of the Prince Regent. They afterwards appointed a committee from among themselves to frame certain resolutions for the purpose of carrying their benevolent intention into effect; the principal object of which was to secure a provision for the children born free after the 12th of August 1816, from the masters of their parents, until the age of fourteen, it being supposed that after they shall have attained that age they will be able to provide for themselves.

Sir Alexander Johnston states, that the special jurymen of Colombo consist of about 130 of the most respectable Dutch gentlemen of the place, in which number are contained almost all the Dutch who are large proprietors of slaves. Besides these gentlemen, there are jurymen of all the different castes among the natives. The moment the jurymen of these castes heard of the resolution adopted by the Dutch special jurymen, they were so much struck by the example, that they also addressed the Chief Justice, announcing their unanimous acquiescence in the measure which had been resolved upon by the Dutch special jurymen. And Sir Alexander Johnston adds, that the example of the jurymen at Colombo, was, he understood, to be immediately followed by all the jurymen on the island. "The state of domestic slavery," he says, "which was practised in this island for three centuries may now be considered at an end." And he observes, that the measure which has thus been brought about, is in a great degree owing to the principles diffused by the circulation of the Reports of the African Institution.

The Directors are persuaded that they express the cordial feeling of the institution at large in offering the tribute of their grateful acknowledgement to Sir Alexander Johnston for his successful exertions in promoting, and to the special and other jurymen of the island for their general adoption of this important change in the condition of their country, and for the bright example which they have taken the lead in exhibiting to the world, of fixing a period for the extinction of the state of domestic slavery, an example which the Directors trust will speedily be followed wherever it may be done with safety. But whether

this

this hope shall be realized or not, it will never be forgotten that the inhabitants of Colombo were the first of the British colonists to act upon this grand, noble, liberal and disinterested principle; and they will for ever deserve the best thanks of every individual who has at heart the advancement of the happiness of mankind, and the improvement of human nature.

Sir *Alex. Johnston.* 9 July 1832.

Extract of a LETTER from the Honourable *Sir Alexander Johnston*, dated Colombo, 22d July 1816.

I HAVE, for the last ten years of my residence in Ceylon, been endeavouring, as I believe I have often mentioned to you, to get the principal proprietors of slaves on the island to fix a day after which all children born of their slaves shall be considered as free. My endeavours have at last, as you will see by the enclosed papers, been attended with success. I wrote on the 10th of this month a letter (of which No. 1 is a copy) upon the subject to the principal proprietors of slaves in this place, who are upon the list of the special jurymen for the province of Colombo, and who are therefore all personally known to me. By the letter, (of which No. 2 is a copy,) you will see that the proposal contained in my letter was well received by them; and that they, at a general meeting which they called to take the contents of that letter into consideration, unanimously came to the resolution, that all children born of their slaves after the 12th of August next should be free; (the 12th of August was fixed upon by them, at my suggestion, as a compliment to the Prince Regent). They afterwards appointed a committee from among themselves to frame certain resolutions (No. 3), for the purpose of carrying their benevolent intention into effect. The principal object of these resolutions is, as you will perceive, to secure that the children born free after the 12th of August next shall be provided for by the masters of their parents until the age of fourteen, it being supposed that after they have attained that age they will be able to provide for themselves.

The Dutch special jurymen of this place consist of about 130 of the most respectable Dutch gentlemen of the place; in which number are contained almost all the Dutch who are large proprietors of slaves. Besides these gentlemen, there are jurymen of all the different castes among the natives, such as vellales, fishermen, men of the mahabadde or cinnamon department, Chittees, and Mahomedans. The moment the jurymen of these castes heard of the resolution which had been come to by the Dutch special jurymen, they were so much struck with the example which they had set them, that they also immediately addressed me in the same manner as the Dutch had done; announcing their unanimous acquiescence in the measure which had been adopted by the Dutch, and their unanimous determination to consider as free all children that may be born of their slaves after the 12th of August.

No. 4. is a copy of the answer which I sent to the address which was presented to me on the occasion by the Dutch special jurymen; and No. 5. a copy of that which I returned to the respective addresses which were sent me by all the jurymen of the different castes of natives at Colombo.

The example of the jurymen at Colombo, is, I understand, to be immediately followed by all the jurymen on the island *. You will, I am sure, be delighted to hear of this event. The state of domestic slavery, which has prevailed in this island for three centuries, may now be considered at an end.

No. 1.—Copy of a LETTER from the Hon. Sir *Alexander Johnston* to the Dutch Gentlemen whose Names are on the List of Special Jurymen for the Province of Colombo.

Gentlemen, Colombo, July 10, 1816.

THE able assistance which I so frequently receive from you in the execution of my office, renders it my duty to communicate to you, without delay, any information which may be interesting to your feelings. I therefore have the honour to send for your perusal, the Eighth and Ninth Reports of the African Institution, which I have lately received from England.

The liberality which you have always displayed in your sentiments as jurymen, make me certain that you will be highly gratified with the success which has attended the proceedings of that benevolent institution.

Many of you are aware of the measure which I proposed in 1806 to the principal proprietors of slaves on this island, and of the reason for which its adoption was at that time postponed.

Allow me to avail myself of the present opportunity to suggest to you, that, should those proprietors, in consequence of the change which has since taken place in the circumstances of this island, now think such a measure advisable, they will, by carrying it into effect, set a bright example to their countrymen, and show themselves worthy to be ranked amongst the benefactors of the human race.

I have the honour to be, gentlemen,
Your most obedient humble servant,
(signed) *Alexander Johnston.*

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* It was shortly after followed by all the proprietors of domestic slaves (in number 763) on the Island; all the proprietors of slaves on Ceylon were on the list of jurymen.

Sir *Alex. Johnston.*

9 July 1832.

No. 2.—Copy of the Answer to the above.

To the Honourable Sir *Alexander Johnston*, Knight, Chief Justice of the Supreme Court of Judicature in the Island of Ceylon, &c. &c. &c.

May it please your Lordship,

We, the undersigned, respectfully beg leave to acknowledge the receipt of your Lordship's very kind and condescending letter of the 10th instant, accompanied with the Eighth and Ninth Reports of the African Institution, the perusal of which we did not delay, in consequence of the honourable distinction which your Lordship has shown in addressing us on so important a subject, with the laudable and humane view of directing our attention to the measure which your Lordship has heretofore proposed in the year 1806.

We sincerely beg leave to assure your Lordship, that the proposal conveyed by your Lordship's letter is gratifying to our feelings; and it is our earnest desire, if possible, to disencumber ourselves of that unnatural character of being proprietors of human beings; but we feel regret in adding, that the circumstance of every individual of us does not allow a sudden and total abolition of slavery, without subjecting both the proprietors and the slaves themselves to material and serious injuries.

We take the liberty to add, that the slaves of the Dutch inhabitants are generally emancipated at the death of their owners, as will appear to your Lordship on reference to their wills deposited in the records of the Supreme Court; and we are confident that those who are still in a state of slavery have likewise the same chance of obtaining their freedom.

We have, therefore, in following the magnanimous example of those alluded to in the aforementioned reports of the African Institution, come to a resolution, as our voluntary act, to declare, that all children who may be born slaves from and after the 12th of August 1816, inclusive, shall be considered free, and under such provisions and conditions as contained in a resolution which we shall agree upon, and which we shall have the honour of submitting to your Lordship, for the extinction of a traffic avowedly repugnant to every moral and religious virtue.

We have the honour to subscribe ourselves,

May it please your Lordship,

Your Lordship's most obedient and very faithful humble servants,

Colombo, July 14, 1816. (signed) By 64 persons.

No. 3.—Copy of the Resolutions referred to in the preceding Letter.

At a meeting of the Members of the Special Dutch Jurors, assembled by general consent, for framing certain Resolutions, to be carried into effect for the eventual Emancipation of Children born of Slaves, held at Colombo, on Monday the 15th July 1816;

Present—Counr. Sebastian Wickerman, Esq., Johan Frederic Lorenz, Esq., John Gerard Kriekenbeek, Esq., Frans Philip Fretz, Esq., Leonard Van Dort, Esq., Christ. Cornelis Uhlenbeek, Esq., Wilh. Abraham Kriekenbeek, Esq., Dieterich Cornelis Fretz, Esq., Richard Morgan, Esq., Cornelis Arnoldus Prins, Esq., Johannes Justinus Stork, Esq., Jacobus Cornelis Vandendriessen, Esq., Johannes Bartholomeusz, Esq.

Resolved unanimously,

1st. That all children born of slaves from and after the 12th of August next ensuing shall be considered free.

2d. That if a female slave be sold who has a child or children born free, they shall go with her into the hands of the new master, if they have not completed their second year.

3d. That of all children who have past their second year, it shall be at the option of the master to return them, notwithstanding the sale of the mother.

4th. That all children who are born free shall remain in their master's house, and serve them without any wages, save and except their food and raiment, which shall be at the expenses of the masters; a male till the age of fourteen, and a female till the age of twelve.

5th. That when free-born children have completed the fourteenth and twelfth year of their age, as aforesaid, they shall from that day since be emancipated from their masters.

6th. That if a master manumits his female slave, who has a free-born child or children above two years of age, it shall be at the option of the masters to retain them, namely, the female till the age of twelve, and the male till the age of fourteen, or allow such child or children to follow the mother; in which latter case the mother shall be obliged to support the child or children.

7th. That in case any master, through manifest poverty, or from the incorrigible depravity of the free-born children, or for any other causes, finds himself unable to retain them any longer

longer under his care, application shall be made by such masters to any charitable funds, or the magistrates, that they may be otherwise disposed of.

8th. That in order to prevent any fraud to the prejudice of the free-born children, all heads of the families in whose houses any child of that description is born shall have the birth of such child registered by the constables of his division at least within three days thereafter.

9th. That every constable shall, for the same purpose, open a register, in which shall be specified the sex, and names of the parents and masters; and a list thereof shall monthly be transmitted to the office of the sitting magistrate, to be entered in a general register of the free-born children.

10th. That in the register to be kept by the constable, an entry shall likewise be made by him of the death of every free-born child, upon the information to be given by the heads of the family within the same space of time aforesaid; and a monthly list thereof shall be transmitted to the sitting magistrate's office, to be entered accordingly in the general register.

11th. That of both the general registers of births and deaths quarterly returns shall be made to the Chief Secretary's office.

Lastly, Resolved unanimously,

That the foregoing resolutions be forwarded to the Honourable the Chief Justice, to be submitted to his Excellency the Governor, in order that the same may be made a rule, under such alterations, amendments and modifications as his Excellency may deem expedient for the furtherance of the beneficial object in view.

(signed) By all present.

No. 4.—Copy of the Answer of the Hon. *Sir Alexander Johnston* to the Address presented to him by the Dutch Special Jurymen.

Gentlemen, Colombo, 21st July 1816.

I HAVE had the honour to receive the resolutions which you have sent me by Mr. Kriekenbeek and by Mr. Prins, and shall with pleasure present them, as you desire me, to his Excellency the Governor.

I beg leave to offer you my warmest congratulations on this interesting occasion. The measure which you have unanimously adopted does the highest honour to your feelings. It must inevitably produce a great and a most favourable change in the moral habits and sentiments of many different classes of society in this island; and generations yet unborn will hereafter reflect with gratitude upon the names of those persons, to whose humanity they will owe the numerous blessings which attend a state of freedom.

I return you my sincere thanks for the honour you have done me, by making me the channel through which your benevolent intention is to be communicated to his Excellency the Governor. As an Englishman, I am bound to feel proud in having my name associated with any measure which secures the sacred right of liberty to a number of my fellow-creatures.

I have the honour to be, Gentlemen,
Your most obedient and humble servant,
(signed) *Alexander Johnston.*

No. 5.—Copy of the Answer of the Hon. *Sir Alexander Johnston* to the Address presented to him by the Jurymen of the different Castes of Natives at Colombo.

Gentlemen, Colombo, 22d July 1816.

I HAVE had the honour to receive the resolutions which you have respectively passed, declaring your unanimous acquiescence in the measure which has lately been adopted by the Dutch special jurymen

I take the liberty to enclose you, as the best way of conveying to you the sentiments which I entertain upon the subject, a copy of a letter which I have written to those gentlemen.

Allow me to add, that I am fully aware of the anxiety which the jurymen of all castes have shown to emulate the example set them by the Dutch special jurymen; and that it will be gratifying to the friends of humanity to know, that whatever difference of religion, or whatever difference of caste, may prevail among the persons who are enrolled on the list of jurymen of this place, no difference of opinion has for a moment prevailed among them as to the propriety and justice of the measure in question.

I have the honour to be, Gentlemen,
Your most obedient and humble servant,
(signed) *Alexander Johnston.*

Sir *Alex. Johnston.*

9 July 1832.

(K.)

A PAPER containing an Account of the different circumstances connected with the Repeal, in 1810, of all the Restrictions which were previously in force on the Island of *Ceylon* against Europeans acquiring and holding Lands in Perpetuity on that Island.

AS the steps that were taken by Sir Alexander Johnston many years ago to repeal the laws which then prevailed in the island of Ceylon against the admission of Europeans to colonize on that island form a precedent for adopting a similar measure in the British territories on the continent of India, and must of course be frequently referred to by the members of both Houses of Parliament when the discussion of this important measure is brought before Parliament, we shall, for the information of those members in particular, and for the British public in general, endeavour to give a detailed account of the restrictions against European colonization which were originally introduced into the island of Ceylon on the capture of the Dutch possessions in that island by the British arms, and of the different measures which led to the complete repeal of those restrictions, and to the complete change of policy by His Majesty's Ministers upon that subject.

When the English took possession of the Dutch settlements in the island of Ceylon, they were, in the first instance, placed under the government of the East India Company, and the same restrictions against European colonization as prevailed in the rest of the Company's dominions were in force in them; when afterwards, in 1801, the Dutch possessions on that island were transferred from the government of the East India Company to that of the Crown, His Majesty's Ministers, adopting the same policy as the East India Company had previously done with respect to European colonization in Ceylon, sent out instructions, of which the following are copies, upon the subject, to the late Lord Guildford, the then Governor of that island:

"With a view to preclude all approaches towards European colonization, you will observe, that no grants of land in perpetuity, or estates of inheritance, are to be made by Government to British subjects or European settlers, and if any such have already been conceded by Government since the island has been in the King's possessions, as such grant could only have been made subject to ratification by His Majesty, the consideration (if any) which may have been paid should be refunded, and the grant revoked.

"You will also let it be understood that the purchase of lands in perpetuity, for the obtainment of a longer term in lands in Ceylon than the period of seven years, whether in their own name or by the intervention of a native trustee, be utterly forbidden to all British subjects in the civil or military service, and to all licensed residents in Ceylon. In the event of any act being done in violation of this restriction, the attempt should be deemed a revocation of the licence possessed by the offenders.

"That Government may be apprized of the fact, you will direct that all conveyances and contracts relative to land entered into by any licensed resident, unless as tenant at will, or from year to year, be registered in the Secretary's office within three months after the contract has been entered into, on pain that the whole transaction be rendered null and void.

"As purchases of land may already have taken place between British subjects and the Dutch or natives, which, if sanctioned by Government, would form an exception to the present system, you will call on such British purchasers to dispose of such landed property, the acquisition of which was, at the least, extremely injudicious during the present war; as the value will probably have risen, and they will receive the increased amount, they will have no right to complain. Should, however, any such British purchaser refuse to acquiesce you will consider that refusal as a revocation of his licence, and direct him to depart from the island."

In 1806, Sir Alexander Johnston, having become Chief Justice and first member of his Majesty's Council in Ceylon, made, at the request of the then Governor, a complete circuit of the island, not only for the purpose of the administration of justice through every part of the British territories, but also for that of examining into, upon the spot, the state of the people, and the best means of ameliorating their condition, by improving the agriculture, the manufactures, and commerce of the country. Amongst other objects, he particularly directed his attention, while on the circuit, to the extent and nature of the vast tracts of waste lands belonging to the Government in the northern and eastern divisions of the island, which, although they had in ancient times been highly cultivated and well peopled, were then completely uncultivated and depopulated.

Sir Alexander being, in consequence of the report he made as to these lands, requested by Sir Thomas Maitland, the then Governor, to give his opinion as to the best mode of restoring them to their former state of cultivation, strongly advised that all the restrictions which were then in force against the colonization of Europeans in the island should be immediately repealed, and that, on the contrary, the greatest encouragement should be held out by Government to every European capitalist who would take grants of those lands from Government, and who would introduce European capital, European industry, and European arts and sciences, amongst the natives of the country.

Sir Thomas Maitland, agreeing with Sir Alexander Johnston in this opinion, recommended the adoption of the measure proposed by Sir Alexander to His Majesty's Ministers; and on Sir Alexander's proceeding to England, in 1809, for the purpose of submitting

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to His Majesty's Ministers, at the request of the Governor in Council in Ceylon, various measures for the improvement of the government and the situation of the island, instructed him particularly to impress on the minds of His Majesty's Ministers the policy of encouraging European colonization in Ceylon. Sir Alexander, on his arrival in England, having done so, the late Lord Londonderry, the then Secretary of State for the Colonies, sent out instructions to the Governor of Ceylon, annulling the restrictions which had previously prevailed in that island against European colonization, and authorizing him to adopt a different policy for the future, upon which the two proclamations were issued by His Majesty's Government in Ceylon, of which the following are copies:

(Government Advertisement.)

"Whereas certain restrictions have hitherto been laid on by His Majesty's commands, prohibiting Europeans from holding grounds in this island, and restricting the possession of lands to natives only, save and except in the town and fort of Colombo, and the gravetts thereunto belonging; public notice is hereby given, by command of His Excellency, that His Majesty has been graciously pleased to direct that all such restrictions be done away, and they are hereby done away accordingly, save and except in the district of Trincomalee, where the aforementioned restrictions are, for the present, still to apply.

"By his Excellency's command,

(signed) "*John Rodney*,
"Chief Secretary to Government."

"Colombo, 4th December 1810."

EXTRACT from the Ceylon Government Gazette of July 22, 1812.

(Government Advertisement.)

"*Grants of Land for Cultivation.*—The advertisement published by the Right Hon. Lieutenant-General Maitland, dated 4th December, 1810, notifying that all restrictions existing against Europeans acquiring permanent property of land in this island were from thenceforth discontinued, except in the district of Trincomalee, is now republished, viz.: 'Whereas certain restrictions have hitherto been laid on by His Majesty's commands, prohibiting Europeans from holding grounds in this island, and restricting the possession of lands to natives only, save and except in the town and fort of Colombo, and the gravetts thereunto belonging, public notice is hereby given, by command of his Excellency, that His Majesty has been graciously pleased to direct that all such restrictions be done away, and they are hereby done away accordingly, save and except in the district of Trincomalee, where the aforementioned restrictions are for the present still to apply.' And the exception contained in the said advertisement with regard to the district of Trincomalee is hereby limited to the whole of the peninsula of Trincomalee, and three miles westward of the tank situated in the centre of the commencement of the isthmus. And for the further information and encouragement of persons desirous of obtaining grants of land from Government, for the purposes of cultivation, in any part of this island, with the temporary exception last mentioned.

"His Excellency is pleased hereby to publish the rules and conditions by which the grants will be regulated, in pursuance of instructions received from His Majesty's Ministers on this subject. Grants in perpetuity will be given to His Majesty's European subjects, and also to such Europeans, or their descendants, as were settled in Ceylon before the conquest of it by His Majesty, and who, by their good conduct since may have entitled themselves to that indulgence. The quantity of land so granted will not exceed 4,000 acres to any one individual. Such lands will be held free of all duty to Government for a period not exceeding ten, or less than five years. At the expiration of that period the lands will be subject to a fixed rent, liable to be altered at stated periods, but in no instance to exceed one-tenth of the actual annual produce. All such grants will be subject to a condition of cultivation and improvement according to the situation and capability of the land, the particulars of which stipulation, and of all other conditions, in which a latitude is left, will be fixed in the grants, upon a fair and equitable consideration of the circumstances of each case. Applications to be made by letter, addressed to the Chief Secretary of Government.

"By his Excellency's command,

(signed) "*John Rodney*,
"Chief Secretary to Government."

"Chief Secretary's Office, Colombo, July 21, 1812."

The late Lord Londonderry, who entertained the same opinions as Sir Alexander Johnston as to the policy of encouraging European capitalists to settle in Ceylon, had determined, had he remained in office, to adopt, in pursuance of the system of policy acted upon in these proclamations, the other supplementary measures advised at the same time by Sir A. Johnston, as necessary to secure complete success to the objects which his Lordship had in view.

The supplementary measures advised by Sir A. Johnston were, 1st, to repeal such parts of the Governor's instructions as authorized him, under particular circumstances, to remove a European

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a European from the island without trial, and positively to direct that no European, American, or native of the continent of India, or the island of Ceylon, should be removed from the island, without his first having been found guilty, by the verdict of a jury, of some offence to which the punishment of banishment from the island is attached by law. 2dly. To prohibit the Governor of Ceylon from any longer exercising the power, which he has hitherto exercised, of ordering any native of the island to labour for Government by force, and to direct that all labour performed for Government by natives shall be paid for in the same manner as if they performed that labour for any private individual; the above power being often productive of the greatest hardships, and the greatest injustice to the natives, and being capable of being made use of as a means of depriving such Europeans or others as may settle on the island of a part or the whole of their native labourers, at a moment when the services of those labourers may be most essential to the success of their agricultural, manufacturing, and commercial speculations. 3dly. To declare the ports of Trincomalee, Point de Galle, Colombo, and Jaffna, free ports. 4thly. To repeal such parts of the Governor's instructions as authorize him to make legislative acts for the government of the island by his mere will and pleasure, and without the check or control of any other person in the island, and thereby enabling him, if he thinks proper, virtually, though not avowedly, to defeat even the provisions of His Majesty's charter of justice for Ceylon, which is issued under the Great Seal of England. 5th. To frame, by Act of Parliament, a free constitution for all the inhabitants of the island of Ceylon, founded upon the principles of the British constitution, but adapted to the religion, the customs, and manners of the natives, as well as to the peculiar circumstances of the country. 6th. To frame a short and a clear code of laws, divested of all technical language, for the use of the inhabitants of Ceylon. 7th. To advise some of the leading merchants in the principal towns which have an interest in the agricultural improvement of, and trade with, the island of Ceylon, to form chambers of commerce, or committees, for the purpose of watching over and protecting, in England, the interest of such British European subjects as may embark their capital in speculations upon that island.

The reasons urged by Sir Alex. Johnston for establishing such committees, are contained in the printed account, of which the following is a copy:

"A few months ago, copies of official documents were published, from which it appeared that the settlement of Europeans in Ceylon had been allowed, at the instance of Sir A. Johnston, the then Chief Justice of the colony. It may be useful to state, that at the time Sir A. Johnston proposed to His Majesty's Ministers to take off the restrictions against Europeans holding land in Ceylon, which restrictions were taken off by the proclamations of 1810 and 1812, he was perfectly aware that this measure would not be attended with the full benefits which might be derived from its adoption, unless those persons who are connected with the trading and manufacturing interests of England were made fully acquainted with the real state of the island of Ceylon, and unless they were induced to exercise a salutary superintendence over the interests of the several capitalists who might determine, in consequence of this measure, to settle upon that island, but who were very unlikely to succeed in their speculations, unless they could obtain in this country, before they embarked in those speculations, such information as might be necessary to enable them to judge of the prudence or advisability of embarking in them; and unless they could also, after they once had embarked in them, be certain, in case of their meeting with opposition on the island, of receiving, in all cases in which they were really wronged, the support of the trading and manufacturing interest of England, both in their endeavours to obtain redress, and to secure for themselves the adoption of such a policy, and such a system of laws for the regulation of the agriculture, manufactures, and trade of the island, as might enable them to avail themselves, to the fullest extent, of the local capabilities of the island, and of the advantageous and free use of their capitals.

"In order to secure for them the certainty of being able to procure such information as they might require before they determined upon such speculations, and the equal certainty of obtaining redress in England, if wronged in the colony, after they once had embarked in such speculations, Sir Alexander proposed that a committee should be formed in England of some of the most respectable and best informed of the persons who were connected at Liverpool, Glasgow, Manchester, and other places, with such portions of the trading and manufacturing interests of England as were the most interested in the trade and improvements of all branches of trade and manufactures in India, and that that committee should adopt such measures as are necessary to enable it to obtain the most accurate information that could be procured of every thing relative to the island of Ceylon. Such a committee will be a great benefit—

"1st. To the persons who embark their capitals in speculations on the island of Ceylon. 2d. To the native inhabitants of that island. 3d. To the people of Great Britain. 4th. To the Government of Great Britain.

"1st. To the persons who embark their capitals in speculations on the island of Ceylon.

"It will enable all such persons to obtain, without expense, information upon which they can rely, as to all the following particulars:—As to what capital they ought to embark in any speculation; what profit they may fairly expect; what dangers or opposition they are likely to encounter; and what assistance they ought beforehand to secure from Government; as to the nature of the climate, the soil, the mineral and vegetable productions of the country; as to the extent, the description, and the character of the population; as to the

the price of labour, the state of machinery, and the different sorts of implements in use in agriculture and manufactures; as to the possibility of improving such implements, or of substituting in their room the machinery used for similar purposes in Europe; as to the facility, where labourers are not to be had in Ceylon, of getting them either from the peninsula of India or from China; as to the practicability of substituting for human labour, where human labour cannot be procured, either the labour of oxen or that of elephants; as to the nature of the religious and other prejudices of the people, and the effect which those prejudices are calculated to have upon their habits of thinking with respect to different descriptions of labour, manufactures and trade. It will also enable all such persons, in case of any dispute, either with the local government of the island, or with persons of influence on the island, to bring their complaints before His Majesty's Ministers, through the committee, with much more effect than they could otherwise do, in consequence of His Majesty's Ministers being fully aware that those complaints had been first of all examined by merchants of respectability in this country, who were thoroughly acquainted with the subject; who viewed the circumstances in which the colonists were placed in Ceylon with with the good sense, enlightened ideas, and liberal feelings of British merchants; and who, provided they approved of the conduct and proceedings of the colonists in Ceylon, would give their strenuous support to those colonists, and would excite in their favour the sympathy and support of the whole trading and manufacturing interests of England.

" 2d. This committee will be a benefit to the native inhabitants of the island of Ceylon, by encouraging capitalists from England to employ their capital with safety and with profit in agriculture, manufactures and trade in that island, and thereby making the island what it is admirably fitted for by its local situation, the great entrepôt of trade between Europe, America, Africa, Arabia, and the western coast of the peninsula of India on the one side, and China, the Eastern Archipelago, all the countries on the eastern side of the Bay of Bengal, Bengal itself, and the coast of Coromandel, on the other side.

" 3d. This committee will be a benefit to the people of Great Britain, by rendering the people of Ceylon active, rich and prosperous; by increasing the variety and quantity of their exchangeable produce, their demand for the manufactures and other produce of Great Britain, and thereby enabling them not only to defray the expenses of their own local government in particular, but also to contribute in some degree to the discharge of the expenses of the Government of Great Britain at large.

" 4th. This committee will be a benefit to His Majesty's Ministers, by enabling them to ascertain, from a body of merchants in this country, as well as from a body of merchants in Ceylon, who are better acquainted, both from their knowledge of the general principles of commerce and of the local circumstances of the island, than any other persons can be, with what the real wants of the island may be; what improvements in the agriculture, manufacture and trade of the island can be made by Government; what encouragement it is absolutely necessary and advisable that Government should give, in order to carry into effect these improvements; what laws now in existence are prejudicial to the agriculture, manufacture and trade of the island; what laws ought to be abolished; what, if any, substituted in their room. It will also enable His Majesty's Ministers not only to adopt, with benefit to the country, such measures as they may, under the advice of the committee think proper to adopt; but it will, through the influence it must possess in all the great manufacturing and trading towns of England, render all such measures popular by explaining to the trading and manufacturing interest of England the advantages they are likely to derive from the adoption of those measures; it will also enable Government, in cases of complaints being made to them by the colonists and other speculators in Ceylon against the local government or persons of influence on that island, to know what decisions they ought to come to upon the subject, consistently with their own rights and the interests and feelings of the people of the island of Ceylon."

In consequence of the late Lord Londonderry having given up the office of Secretary of State for the Colonies, in the latter end of 1809 or beginning of 1810, although the instructions to the Governor of Ceylon against allowing Europeans to settle upon that island were repealed, and the proclamations, of which we have given copies, were published by the Government of Ceylon, none of the other measures, mentioned by us as having been recommended by Sir Alex. Johnston, were subsequently carried into effect; and few, or no European British subjects have availed themselves of the terms held out by the Ceylon government in the proclamations of 1810 and 1812, it being obvious that no British subject could prudently venture to embark a large capital in that island, without enjoying the security which the measures proposed by Sir Alex. Johnston were calculated to give him.

Sir *Alex. Johnston.*

9 July 1832.

(L.)

PAPER, containing Copies of a Letter from Mr. Ricketts, the Agent for the East Indians to Sir Alexander Johnston, on the 6th May 1830, and Sir Alexander's Answer, explaining to him the line of policy which he would advise the British Government to adopt with respect to all the East Indians in British India.

Copy of a Letter from Mr. *Ricketts* to Sir *Alexander Johnston.*

" 13, Brooksby-street, Liverpool Road,
" Dear Sir, 6th May 1830.

" YOU lately did me the honour to express a wish to peruse the East Indian's petition to Parliament, with which I have been deputed to England by my countrymen in India; and it of course gave me great pleasure to put a copy into your hands. Your are now, doubtless, made acquainted with the civil and political disabilities complained of in the petition.

" Aware, as I am, of your philanthropic efforts in behalf of the native burghers at Ceylon, the descendants of European fathers, during your residence as Chief Justice and President in Council on the Island, I shall esteem it a particular favour if you will kindly seize a moment of leisure to let me know the practical bearings and results of the measures pursued by you, and whether they turned out to be prejudicial in any way to the interests of the local government.

" I beg you will excuse my troubling you on the subject; and the best apology I can offer, and which I am sure you will as readily accept, is the vast importance of the public cause in which I am engaged.

" I have the honour to be,
" Dear Sir, vour very obedient Servant
" *John W. Ricketts.*"

" Dear Sir, " 19, Great Cumberland Place.

" I HAVE the honour to acknowledge the receipt of your letter of the 6th of May 1830. In answer, I beg leave to assure you that I shall with pleasure explain to you the opinions which I entertain upon the subject to which you refer; and the different measures which, in consequence of those opinions, I adopted while I was Chief Justice and President of His Majesty's Council in Ceylon.

" I have always been of opinion that, in policy, His Majesty's Government ought to show the most marked respect to all persons on Ceylon, who are either descended from Europeans, or who bear any resemblance in features, manners, dress, religion, language and education to Europeans, and thereby constantly associate in the minds of the natives of the country an idea of respect and superiority with that of a European, and with that of everything which is characteristic of or connected with a European.

" That in justice it ought to do every thing in its power to place the native burghers on that island in a situation which may enable them to acquire the respect and esteem of their countrymen, and which may make it their interest and their wish as well as their duty to support the authority and promote the views of the British nation. That it ought to encourage them to improve their moral character and to cultivate their understanding, by affording them the same prospect as Europeans enjoy of attaining, if they desire them, situations of the highest honour and of the greatest emolument in all the different departments of the state.

" And that it ought to consider the exclusion by law, for no fault of their own, but merely on account of their completion of so valuable a class of His Majesty's subjects, as unjust and impolitic, as systematically degrading them in the eyes of their countrymen, and as subjecting them on every occasion, in private and in public, amongt Europeans and amongst natives, however respectable, however well educated, and however deserving they may be, to the most unmerited contumely and the most painful mortifications.

" I have also always been of opinion, that His Majesty's Government ought, not only with a view to the religious, moral and political instruction of the people, but even with a view to the increase of its own strength and authority on Ceylon, to adopt measures which may gradually introduce amongst the inhabitants of that island such portions of the arts and sciences, and of the moral and political institutions of Europe, as may be applicable to the situation of the country, and may ultimately assimilate the character and feelings of the people of India to the character and feelings of the people of Great Britain.

" That it ought to consider the native burghers on the island of Ceylon as valuable auxiliaries in carrying into effect all such measures, and in bringing about all such changes as are calculated to improve the moral and political character of the natives of that island.

" And finally, that it must, so far from diminishing its popularity and endangering its authority, increase the former and affirm the latter by exalting the character and conciliating the affections of all the native burghers who are settled in different parts of the island, who, from the circumstances of their birth, are thoroughly acquainted with the language, habits, manners, usages and prejudices of the natives; and who, from the circumstances

Sir *Alex. Johnston.* 9 July 1832.

stances of their descent, their features, their names, their religion, their laws, their education, and their language, must, if wisely protected, feel themselves bound by every tie of affection and interest to adhere at all times to the British Government, and to consider their importance, if not their existence in society, as depending upon the continuance and strength of the British authority in India.

" Entertaining these opinions, I felt it to be my duty, as soon as I became Chief Justice and President of His Majesty's Council on Ceylon, to advise His Majesty's Government to place every descendant of a European on that island, whatever his complexion might be, precisely upon the same footing as a European; to look upon him as having the same rights and privileges, as subject to the same criminal and civil law, and as eligible to the same appointments in every department of government. Upon my recommendation native burghers were appointed to the offices of registrar, deputy registrar, keeper of the records, advocates, proctors, notaries of the Supreme Court, members of the landrards, secretaries of the provincial courts, sitting magistrates, justices of the peace, and superintendents of the police, to the office of proctor for paupers, a situation of great responsibility, created by Government at my suggestion, for the specific purpose of protecting the rights of paupers and slaves, to that of deputy advocate, fiscal, and, under certain circumstances, even to that of acting advocate fiscal, an officer next in rank in the Supreme Court to the chief and puisne justice, and discharging duties in that court of great trust and importance to the safety of the Government and the tranquillity of the country.

" In consequence of the adoption by government of this line of policy, the native burghers on the island of Ceylon acquired a high value for character, and a powerful motive for improving their understanding, for cultivating every branch of knowledge, for making themselves acquainted with the arts, the sciences, the manufactures, and the agriculture of Europe; they enjoyed a further opportunity of displaying their talents and extending their influence amongst their countrymen, and they felt a pride in exerting that influence in favour of the British Government, and in promoting amongst the natives of the island all such measures as were calculated to improve the state of the country, and to ameliorate the condition of the people.

" My experience on the island of Ceylon led me, many years ago, to believe that the only way of effectually and permanently improving the condition of that island is for Parliament, after having instituted in England a full and public inquiry upon the subject, to relieve its agriculture, its manufactures, its trade and its population, from all unnecessary and impolitic restrictions; to open its ports to vessels of all nations; to encourage Europeans to settle on the island, and apply their capital, their skill and their industry to the cultivation of the country; and solemnly to guarantee, by an Act of Parliament, to the inhabitants of every description a free and a liberal system of government, founded on the principles of the British constitution, but adapted to the peculiar circumstances of the island, and to the peculiar manners, feelings and prejudices of the people. I therefore felt it to be my duty, in order to prepare the people for such a change, and to satisfy the Legislature of Great Britain that the natives of India, if properly treated, are capable of appreciating the value of freedom, and exercising all the rights and privileges of free men, to introduce such measures amongst the natives of Ceylon as were calculated to enlighten their understanding, to raise the standard of their moral feeling, to give them a value for character, and a respect for the rights of their fellow-creatures, to vest them with a power of making and administering the laws by which they were to be governed; to encourage amongst them a calm and enlightened discussion of all questions, moral as well as political, in which either their spiritual or their temporal welfare might be concerned; to remove all religious jealousies, by removing all political disabilities arising out of a difference of religious persuasions; to make them acquainted with the history of their country, with the nature of the changes, religious and political, which it had undergone, with the causes of those changes, and the effects which they had produced upon the happiness of the people and the prosperity of the country, and with the great advantages which they were capable of deriving from the introduction amongst them of European settlers and of European capital, arts, sciences, skill and manufactures; and to create amongst them, by means of a liberal and well-directed press, a public whose opinion might operate as a protection to all those who acted as the benefactors, and as a check upon all those who act as the oppressors of their country, and might thereby become a powerful engine for establishing amongst them a free, a mild and an economical government.

" In all these measures the native burghers took a most active part, and displayed the most enlightened and the most disinterested feelings in the uniform and efficient support which they afforded me, and acquired by the conduct which they observed in unanimously passing, of their own accord, a resolution emancipating all children born of their slaves after the 12th of August 1816, the highest credit, not only from his Majesty's Government, but also from the members of the African Institution, whose opinion is publicly recorded in the 11th Report of their proceedings in the following words: 'That the grateful acknowledgments of the society are due to them for their general adoption of this important change in the condition of their country, and for the bright example which they have taken the lead in exhibiting to the world of fixing a period for the extinction of the state of domestic slavery, an example which the directors trust will be speedily followed whenever it may be done with safety; but whether this hope shall be realized or not, it will never be forgotten that the inhabitants of Colombo were the first of the British colonists to act upon this grand, noble, liberal and disinterested principle, and that they will ever deserve the best thanks of every individual who has at heart the advancement of the happiness of mankind and the improvement of human nature.'

Sir *Alex. Johnston.*
9 July 1832.

"From the various communications upon literary, moral and political subjects which I frequently received while on Ceylon from East Indians descended from European fathers, in every part of India, from the frequent opportunities which I enjoyed during the two journies, the first in 1809, the last in 1817, which I made by land from Cape Comorin to Madras and back again, of becoming myself personally acquainted with many gentlemen of that class in the peninsula of India, and from the very high opinion which I received of the talents and acquirements of the whole class from the late Colonel Mackenzie, who while Surveyor-General of India employed a great many young men of that class, as well to survey the country as to collect for him the most valuable materials relative to the history of the people, I feel no doubt whatever that, were the Legislature of Great Britain to adopt, with respect to the East Indians throughout the continent of India, the same line of policy which his Majesty's Ministers had at my suggestion adopted with respect to the native burghers throughout the Island of Ceylon, the British government at large would derive the same advantages which the Ceylon government in particular have derived from the talents, the zeal and the loyalty of one of the most respectable and of the most useful portions of His Majesty's subjects in Asia. I was so convinced of this, and of the justice of extending to all East Indians descended from European fathers on the continent of India the advantages of the system of policy observed by his Majesty's Government towards the native burghers of Ceylon, that I submitted, when I was in England in 1810, to the Lord Londonderry a plan upon the subject which secured his approbation, and which, had I remained on Ceylon, I should have advised His Majesty's Ministers to carry into effect under the sanction of a special Act of Parliament.

"The object of this plan was to afford the whole class of East Indians descended from European fathers in Asia a favourable opportunity of raising their moral and political character in the estimation of the people of Europe and Asia, by inducing the most distinguished of that class, from every part of the continent of India, to co-operate with the most distinguished of the native burghers from every part of the island of Ceylon, in establishing an extensive settlement of their own in the northern provinces of that island.

"According to this plan a free constitution, and every right and privilege possessed in England by the most favoured European-born British subject, were to be guaranteed to all members of this settlement by the Legislature of Great Britain.

"The government lands in those provinces which, though at present uncultivated and depopulated, were in former ages most highly cultivated and most densely peopled, were to be granted by His Majesty's Government, in perpetuity, and upon the most liberal terms, to such of them as might be willing to cultivate them. The greatest encouragement was to be afforded them in agriculture, manufactures and commerce. The only two navigable channels through the long ridge of sand-banks extending from the north-west part of the island of Ceylon, to the south-east part of the peninsula of India, and known by the name of 'Adam's Bridge,' were to be deepened so as to admit the passage through them of vessels of a large burden. The immense tank or reservoir of water, called the 'Giant's Tank,' and many other large tanks, were to be repaired at the public expense. An order of merit was to be instituted, in which each member of the settlement might receive a rank and a title according to the quantiy of land which he had brought into cultivation, or according to the degree of improvement which he had made in any branch of useful science or useful manufacture. Elementary schools were to be established in the country for the education of their children; a college, with professors in every department of science and literature, was to be founded in the town of Jaffna, for their use and instruction.

"A certain number of the boys who had distinguished themselves the most at the schools were to be annually placed in the college; and a certain number of those who had distinguished themselves the most at the college were to be annually sent to England, and after a short course of education in that country, adapted to the professions for which they were intended, to receive from the British Government in India appointments according to their respective talents or dispositions, either in the army, the navy, the law, the church, or the civil service.

"I am confident that in such a settlement, situated within twenty miles of the continent of India, near enough to that continent to admit of their constant intercourse with their friends and relations, but far enough from it to be completely removed from the influence of local prejudices, all the East Indians descended from European fathers would enjoy the most favourable opportunity, under the protection of a free and liberal constitution, and under the immediate care and superintendence of the British Parliament, of developing their moral character, of displaying their capacity to enjoy all the free institutions and privileges of Englishmen, and to discharge, with credit to themselves and benefit to their country, all the duties of the highest departments of Government; of acquiring themselves, and of communicating to the natives of the country, all the arts, the sciences, and the literature of Europe; and of gradually but effectually dispelling from the minds of the people of Europe and Asia the unmerited prejudices which, owing to circumstances not under their control, have hitherto prevailed against a numerous class of His Majesty's subjects, who of all others in Asia are, on account of their European descent, the most naturally and the most especially entitled to the protection and sympathy of the British Parliament and the British nation.

"I have the honour to be, dear Sir, your faithful servant,
"*Alex. Johnston.*"

APPENDIX.

IV.—*Judicial.*

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NOTE.—*The Judicial Arrangements which form the subject of the foregoing Papers, originated chiefly in the suggestions and discussions of the Civil Finance Committee at Calcutta. The paragraphs which contain those suggestions are so much blended with the general matters treated of in the Proceedings of that Committee, that they could not, without great inconvenience, and without involving the subjects in obscurity, be separated from them. Reference must therefore be made to the undermentioned Documents in the* GENERAL APPENDIX.

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APPENDIX.

IV.—*Judicial.*

Appendix, No. I.

COPIES of LETTERS, addressed by the Court of Directors to the *Indian* Governments, reviewing the Operations of the Civil and Criminal Courts at the Three Presidencies.

(1.) Letter to the *Bengal* Government, 8 Dec. 1824.

(1.)—COPY of a LETTER from the Court of Directors to the *Bengal* Government, dated 8th December 1824.

1. OUR last Letter to you, in this Department, was dated the 20th October last.

2. In the hope of receiving your detailed Answer to our Letter of 9th November 1814, we have abstained from addressing you upon many matters connected with your Judicial System, and the state of the Courts; which have nevertheless been the subjects of our anxious deliberation.

3. In preparation for the discussion which that Answer will necessarily induce, we have carefully examined the Statement of Suits entered, decided or depending, which, within several past years, we have received from you; and we think it useful to communicate to you the result of this examination of the state of your Civil Judicature, without referring on the present occasion to the various important matters contained in our Letter of 9th November 1814, which will be more conveniently recurred to when we receive your long expected reply to our Orders.

4. The Regulations passed in 1814, which were in operation from the beginning of the next year, materially affected the institution and decision of Civil Suits; and as they continued in force without any remarkable alteration (except as to certain points which will be noticed) till the end of 1820, it will be useful to advert to the business as it stood during that period.

5. The following Table shows the number of Suits instituted or admitted in the several Courts, from 1814 to 1820:—

	1814.	1815.	1816.	1817.	1818.	1819.	1820.
Sudder Dewanny Adawlut -	166	111	130	88	53	120	171
Provincial Courts - -	1,231	981	1,007	1,117	1,229	911	1,307
Courts of Zillah Judges -	6,267	2,867	2,086	2,992	6,387	7,776	9,404
Registers - - - -	10,647	7,066	11,143	14,048	11,271	10,553	9,233
Sudder Aumeens - -	23,841	33,364	39,369	40,748	39,983	43,428	46,471
Moonsiffs - - - -	125,491	74,420	52,550	60,048	82,412	95,505	108,684
TOTAL - - -	167,643	118,809	106,285	119,041	141,335	158,293	175,270

6. By the abolition of the office of Assistant Judge, and by the extension of the powers and the addition to the number of Registers, many descriptions of Suits, which, under the Rules in force before 1815, would have been admitted into the Courts of the Zillah Judges, were thrown into the Courts of the Registers; and by the diminution of the number of the Moonsiffs, and the abridgment of their powers, with the extension of the jurisdiction of the Sudder Aumeens, and the increased number of the tribunals, many additional Suits came into the Courts of the Sudder Aumeens.

 7. Some

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Civil and Criminal Courts at the Three Presidencies.

7. Some of the differences in the Table may be thus accounted for; but the general falling off in the institution of Suits, in the years immediately succeeding 1814, is no doubt to be chiefly ascribed to those provisions of the Regulations which added to the expense of Suits in the first instance, which limited the jurisdiction of the Moonsiffs, and which imposed restrictions on the admission of the Suits of paupers.

8. Comparing the Suits admitted in 1814, with the average of those admitted in the years 1815, 1816 and 1817, in the Courts of the Judges, Registers and Sudder Aumeens, taken together, it will be seen that the numbers were—

In 1814 - - - - - - -	40,755
Average of 1815, 1816 and 1817 - -	50,561
Being an Increase of - -	9,806.

And making a similar comparison of those in the Moonsiffs' Courts, the numbers will be found—

In 1814 - - - - - - -	125,491
Average of 1815, 1816 and 1817 - -	62,339
Being a Decrease of - -	63,152.

9. In 1817 the Moonsiffs, who had been prohibited, by the Regulations of 1814, from receiving Suits in which the cause of action had originated more than one year from the time of preferring the suit, were allowed to receive those in which the cause of action had originated within three years; and the expenses charged upon small Suits, which being excluded from the cognizance of the Moonsiffs, had been forced into the superior Courts, were reduced. The effect of these charges was, that the number of Suits in the Courts of the Moonsiffs increased very greatly, and those in the other Courts considerably.

10. The Regulations of 1814, therefore, prevented the institution of Suits, by rendering justice more difficult of access than it had been before; and those of 1817 promoted the institution of Suits, by removing some of the obstacles which had been opposed to suitors.

11. The Suits which the Records show to have been instituted in the several Courts, from 1797 (the earliest date from which there are any accurate statements) to 1813, are as follows:—

In 1797	330,977	In 1806	251,414
1798	382,483	1807	221,404
1799	368,274	1808	249,890
1800	357,283	1809	229,091
1801	362,342	1810	199,662
1802	353,801	1811	222,528
1803	256,676	1812	186,421
1804	295,931	1813	184,790
1805	268,687		

12. The Suits instituted formerly were, therefore, much more numerous than those in later years; and it is to be remarked that till the year 1805, the Ceded and Conquered Provinces were not included in the jurisdiction of the Courts.

13. The Suits decided in the several Tribunals during the period to which we have referred, were as follows:—

	1814.	1815.	1816.	1817.	1818.	1819.	1820.
Sudder Dewanny Adawlut -	69	94	120	161	144	82	174
Provincial Courts - -	1,096	1,106	1,131	1,385	1,839	1,165	1,327
Zillah Judges - - -	6,398	5,744	6,618	6,828	6,254	5,566	6,422
Registers - - - -	7,930	8,953	12,066	12,587	11,269	9,584	8,259
Sudder Aumeens - -	24,090	26,702	38,922	42,559	42,378	41,019	43,226
Moonsiffs - - -	132,466	93,953	72,055	68,983	77,326	91,324	103,167
TOTAL - - -	172,049	136,552	130,912	132,503	139,210	148,740	162,575

14. The Sudder Adawlut had four and occasionally five European Judges, and the six Provincial Courts had each four; there were forty-six Zillah Judges, with as many or more Registers, more than double that number of Sudder Aumeens, and perhaps about fifteen Moonsiffs on an average to each Zillah. The number of Courts, on the whole, we suppose to have been fully nine hundred.

15. In 1814 arrangements were made for the conduct of business in the Sudder Adawlut and Provincial Courts, with a view to expedite decisions, and their establishments were enlarged.

16. The

16. The average number of decisions passed by the Provincial Courts in 1815 and the five following years, considerably exceeded those passed in 1814; and in the Courts of the Zillah Judges and Registers taken together, and of the Sudder Aumeens, there was a large excess, but in the Courts of the Moonsiffs there was a very great falling off.

17. In the first three years of the period the average yearly decisions of the Moonsiffs were less by 54,000 than those of 1814; and in the last three years, after the alterations of 1817, the average still fell short of the decisions of 1814 by about 40,000; while the average yearly decisions of Zillah Judges, Registers, and Sudder Aumeens together, during the whole period, exceeded the decisions of those tribunals in 1814 by a number less than 17,500.

18. The Suits decided in former years by all the Courts were as follows:

In 1797	282,395	In 1806	254,213
1798	346,574	1807	232,625
1799	373,265	1808	228,029
1800	353,758	1809	230,175
1801	376,417	1810	197,092
1802	344,526	1811	212,328
1803	308,033	1812	187,876
1804	278,180	1813	187,925
1805	271,109		

19. The decrease in the number of decisions may be ascribed partly to the increase of various sorts of business, which prevented the European Judges from deciding so many suits as they did formerly, but chiefly to the reduction of the number of Native tribunals under Regulation 49 of 1803. The decrease in the business done by those Courts has been very great. In 1801 the Native Commissioners in the Lower Provinces and Benares, disposed of 352,316 Suits; in 1817, after the appointment of Sudder Aumeens, and after the accession of the establishment of the Ceded and Conquered Provinces, when the number of Zillahs was increased from twenty-nine to forty-four, the number disposed of by all the Native tribunals was only 111,542, being a difference of 240,774. In the year 1799, more Suits were decided by the Native Commissioners in the Zillahs (Jessore and Purneah), than were decided in 1817 by all the Native judicatories taken together. In one of these Zillahs the suits decided by them in several years were as follows:

Suits decided by Natives in Zillah Jessore in several years:—

In 1798	65,057	In 1806	14,619
1799	73,801	1807	14,461
1800	64,979	1808	13,240
1801	43,466	1809	9,223
1802	31,074	1810	6,033
1803	34,633	1811	5,893
1804	21,802	1812	7,092
1805	16,229		

20. From the variety of miscellaneous duties, and the concerns of the Criminal department, which fall into the hands of the European judicial functionaries almost exclusively, and from the difficulty which frequently occurs of making any addition to the numbers of those officers, the time devoted to the decision of Civil Suits in their Courts is necessarily short, and liable to much fluctuation; but the Native tribunals are in a very small degree subject to such interruptions, and their numbers can be increased with less difficulty, and comparatively at little expense.

21. It is unnecessary for us to repeat to you here what we have already urged on the impracticability of adding materially to the European part of the establishment.

22. As your reply to our Orders of 1814 will, of course, convey to us your sentiments on the means of rendering the Courts more effective by improving their forms, we shall defer our remarks on that subject.

23. The Suits depending at the beginning of 1815, and of the subsequent years, were as follows:—

	1815.	1816.	1817.	1818.	1819.	1820.	1821.
Sudder Dewanny Adawlut	415	432	442	369	302	340	337
Provincial Courts	3,830	3,705	3,581	3,313	2,703	2,449	2,429
Zillah Judges	19,775	16,898	12,366	8,530	8,683	10,893	13,875
Registers	11,149	9,262	8,339	9,800	9,802	10,771	11,745
Sudder Aumeens	21,932	28,594	29,041	27,230	24,835	27,244	30,489
Moonsiffs	77,768	58,235	38,730	29,795	34,881	39,062	44,579
TOTAL	134,869	136,552	92,499	79,037	81,206	90,759	103,454

24. It

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24. It will be seen that the increase of arrears in the Courts of the Sudder Aumeens, from 1815 to 1821, was occasioned by an increase in the number of Suits admitted, and not by a decrease in the number decided; on the contrary, the decisions after 1814 became progressively more numerous. In the Courts of the European Judges the arrears were reduced chiefly by the decision of an increased number of Suits. In the Courts of the Moonsiffs, during the three first years, they were reduced by a falling off in the number of Suits instituted; and during the last three, by an increase in the number decided.

25. An arrear being of importance only inasmuch as it indicates a delay of justice, it is to be remarked, that in the Courts of the Sudder Aumeens, notwithstanding the increase of arrears, the delay was diminished; and that in the other Courts the delay was reduced, as well as the arrear.

26. As Suits are heard in the order of their institution, the number of those decided in a given

TABLE, showing the NUMBER of SUITS DECIDED in the Courts of the Zillah Judges, EXPENDED at the end of the Year, with the

YEARS.	JUDGES' COURTS.			REGISTERS.		
	Decided.	Depending.	Delay.	Decided.	Depending.	Delay.
			Months.			Months.
1802	270	215	9½	682	1,451	25
1803	276	431	19	380	1,546	48
1804	217	568	31	355	964	33
1805	113	891	95	125	933	89
1806	333	1,199	43	305	823	32
1807	837	759	11	234	547	28
1808	398	692	20	226	373	19
1809	353	361	12	241	207	10
1810	154	1,046	80	195	161	10
1811	409	1,459	42	254	189	9
1812	327	1,380	50	167	421	30
1813	442	1,639	44	492	312	7½
1814	310	2,135	82	733	182	3
1815	236	3,058	156	432	290	8
1816	280	896	38	2,991	828	3
1817	404	511	15	1,101	1,017	11
1818	513	213	5	696	1,283	22
1819	25	391	164	575	1,654	34
1820	402	336	10	509	1,862	42

29. The Sudder Adawlut had estimated, from an average of the decisions of three preceding years, that the delay at the beginning of 1815 will be as follows:—

	Years.	Months.
In the Sudder Adawlut	6	3
Provincial Courts, nearly	4	—
Courts of Zillah Judges, upwards of	3	—
— Registers	1	5
— Sudder Aumeens	—	11
— Moonsiffs	—	6

And the time which actually passed before numbers of Suits equal to the arrears of 1815 were disposed of, was as follows:—

	Years.	Months.
In the Sudder Adawlut	3	3
Provincial Courts	3	—
Courts of Zillah Judges	3	1
— Registers	1	2
— Sudder Aumeens	—	9
— Moonsiffs	—	9

30. The delay at the beginning of 1821, taking the rate of decision to be that of the average of the three preceding years, would have been:—

	Years.	Months.
In the Sudder Adawlut	2	6
Provincial Courts	1	8
Courts of Zillah Judges	2	2
— Registers	1	2
— Sudder Aumeens	—	8½
— Moonsiffs, nearly	—	6

a given time, compared with the arrears, will show the delay that would have occurred from the institution of a suit at any of the above periods to its decision.

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27. Some old Suits might remain on the files beyond the period so indicated, an equal number of newly instituted ones being brought on before their regular time; these, however, form but an inconsiderable part of the great mass of suits, and the general average of delay will be found as above.

(1.) Letter to the *Bengal* Government, 8 Dec. 1824.

28. There has been much fluctuation in the number of Suits decided at different times and in different courts, and the delay has of course varied accordingly. As an example, the following Table has been compiled, showing the number of Suits decided and depending in one Zillah, with the corresponding delay, for the last nineteen years; the rate of decision being always supposed to be that of the preceding year:—

Registers, Sudder Aumeens and Moonsiffs, in the Zillah of *Burdwan*, and the NUMBER AVERAGE DELAY of Judicature in all the Courts.

SUDDER AUMEENS.			MOONSIFFS.		
Decided.	Depending.	Delay.	Decided.	Depending.	Delay.
		Months.			Months.
Mem.—At this time there were no Sudder Aumeens			11,514	7,354	7½
			9,048	4,580	6
506	600	14	5,087	4,890	11½
473	2,684	68	6,393	7,476	14
1,299	2,936	27	11,298	7,879	8¼
1,628	2,274	16	8,975	5,608	7½
1,765	1,332	9	5,123	4,716	11
1,420	632	5	4,968	4,307	10
1,146	929	9½	7,054	2,647	4½
1,470	1,364	11	5,899	2,464	5
1,979	2,420	14	5,559	2,609	5¼
2,875	1,997	8	4,774	2,300	5½
2,895	1,496	6	3,065	2,052	8
2,402	2,621	9	3,740	1,693	5¼
4,084	2,975	8½	3,058	1,169	4⅛
3,517	2,516	8½	2,153	986	5½
3,323	1,967	7	3,103	1,245	4¾
3,006	2,283	9	2,767	1,191	5
3,408	2,110	7	3,894	1,077	3¼

31. Suits are sometimes prevented from being brought to a speedy decision, by causes arising out of the circumstances of the case of the parties and their agents, or of the evidence; but the chief interruptions to which suits are liable, are those especially referable to the law, the procedure, or the judicial establishment. In all cases, considerable time is consumed in admitting the suit, preparing and conducting the trial, hearing the parties and evidence on both sides, applying the law to the fact, and at every step endeavouring to preserve the best securities for justice. In reply to our Orders of November 1814, you will advert to any causes of delay that may justly be imputable to technicalities in your system or its operation, distinguishing those causes which are avoidable, from those which cannot be removed, without admitting some greater evil than delay. We remark, that of 46,153 Suits instituted in the several Zillahs of the Bareilly division, from 1811 to 1816, 1,746 (that is, a portion less than 4 per cent.) were for property above 500 Rupees, and below 5,000. Of 1,549 Suits depending at Cuttack in 1821, 68 (that is, a portion little more than 4 per cent.) were for property of the like amount. We conclude that, in all the courts, the number of original suits exclusively belonging to the jurisdiction of the European tribunals, must be very small, probably not 5 per cent. We suggest for your consideration, whether it would not be advisable to direct that every Zillah Judge, when there are many suits in arrear on his file, should make a report to the Sudder Adawlut, specifying the number of appeals from the Registers and from the Sudder Aumeens, the number of original suits of an amount from 500 to 5,000 Rupees, and the number of those which, though of small pecuniary amount, are excluded from the cognizance of Natives. With the exception of these cases, every part of the arrear might be disposed of by Sudder Aumeens, if a sufficient number of qualified and trustworthy Natives can be found for these offices.

32. Your Regulations have provided, that certain descriptions of Suits, the speedy decision of which it was most desirable to ensure, should be disposed of, not by the regular mode of trial, but by summary process. It is to be remarked, that these suits are not included in the Tables of regular Suits before noticed; and they constitute a formidable

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addition to the ordinary business of the Courts. Their numbers instituted in the three last years, were as follow:—

In 1818	34,360
1819	39,819
1820	47,347
TOTAL in Three Years	121,526 *

* Calculated as before.

33. But whatever addition may be made to the number of tribunals, and whatever improvements may be effected in the arrangement of the business, it is of primary importance that the proceedings of the Courts should be in conformity with law and justice.

34. We have to regret that facts which would serve to throw light on the quality of the judicature are but imperfectly known to us. The usual statements do not show the number of appeals to the Provincial Court, nor the proportion of decisions which are reversed or altered by them in appeal, nor the number of regular suits instituted with the view of procuring the reversal of the summary decisions, together with a statement of the manner in which such regular suits were decided; nor have we met with any statement of decisions by Collectors, of suits referred to them; nor are we aware of any criterion for estimating, however roughly, the degree in which appeals are prevented by law expenses and other obstacles. We desire to be furnished with information on these points, and any other which may be in your power to supply.

35. In the conduct of Trials, in unravelling intricacies of particular cases, in eliciting truth from witnesses, in appreciating evidence, in applying the law to the fact, Indian Judges, unprepared by education or otherwise for the judicial office, have many peculiar difficulties to contend with. The code of regulations by which they are bound, consists almost entirely of rules of procedure; the Mahomedan and Hindoo laws are the guide for their decisions in certain cases only, and in all others not specially provided for, the Judge has no law but that of his own conscience. For propriety in the proceedings of the Courts, therefore, little security is to be found in the state of the law and of the judicial establishment.

36. It

	INSTITUTED			
	1821.	1822.	1823.	1824.
Sudder Adawlut	146	106	134	138
Provincial Courts	1,306	1,252	1,130	1,483
Zillah Judges, Registers, Sudder Ameens	59,979	58,273	60,523	62,270
Moonsiffs	102,420	101,568	104,333	107,759
TOTAL	163,851	161,199	166,120	171,650

4. The arrear of undecided Suits, therefore, was progressively increasing.

5. A comparison of the two first columns of the above Statement with a corresponding account for the four preceding years, gives the following result:—

	SUITS Instituted from 1817 to 1820, inclusive.	SUITS Instituted from 1821 to 1824, inclusive.	SUITS Decided from 1817 to 1820, inclusive.	SUITS Decided from 1821 to 1824, inclusive.
Sudder Dewanny Adawlut	432	524	561	463
Provincial Courts	4,564	5,171	5,716	4,222
Zillah Courts	242,294	241,045	236,941	228,386
Moonsiffs Courts	346,649	416,080	340,800	406,283
TOTAL	593,939	662,820	584,018	639,354

6. It appears, therefore, that in the latter period there has been generally an increase in the number of Suits instituted, and a decrease in the number decided, except that in the Zillah Courts (including the Courts of the Zillah Judges, Registers and Sudder Ameens) there

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(1.) Letter to the *Bengal* Government, 8 Dec. 1824.

36. It should be the constant aim of your Government to effect improvements in the legislation, by defining rights and by correcting the rules of judicial procedure; to render those who are called to administer the law competent to the execution of their duties, by affording them instruction in jurisprudence, and by raising the condition of the Native functionaries so as to give them adequate motives for good conduct; continuing without relaxation your attention to the official reports and statements of business, and taking care that the proceedings of the Courts are as public, as open to appeal, and as effectually superintended, as circumstances will permit.

We are, &c.

London, 8 December 1824. (signed) *W. Astell.* *C. Marjoribanks*, &c. &c. &c.

(2.)—COPY of a LETTER from the Court of Directors to the *Bengal* Government, dated the 23d July 1828.

(2.) Letter to the *Bengal* Government, 23 July 1828.

1. Our last Letter to you in this Department was dated the 2d instant.

2. We now proceed to reply to those paragraphs of your Letters, dated 10th April 1823, 26th July, 14th September, and 5th October 1826, which relate to the administration of Civil Justice in the Lower and Western Provinces, in the years 1821, 1822 and 1823; and we shall refer to your Consultations for the Reports and Orders on the business of 1824, no Letter from you on that subject having yet reached us.

3. The following Table shows the number of regular Civil Suits, original and appealed, which were instituted in the period above stated; also the number decided in the same time, and the number depending at the end of each year, in the several Courts:—

DECIDED				DEPENDING, END OF THE YEAR			
1821.	1822.	1823.	1824.	1821.	1822.	1823.	1824.
164	108	69	122	319	317	382	398
1,148	1,095	1,047	932	2,587	2,742	2,846	3,394
7,435	6,972	9,077	9,305	17,292	20,348	21,841	23,170
6,872	6,062	6,146	4,575	11,551	11,040	10,112	10,596
43,123	40,823	43,116	44,880	28,131	30,517	31,600	33,757
102,575	97,533	101,056	105,119	43,996	47,050	50,085	52,337
161,317	152,593	160,511	164,933	103,876	112,014	116,866	123,651

there was a small decrease in the number instituted; and in the Courts of the Moonsiffs a considerable increase in the number decided. It is to be remarked, however, that the excess of the number instituted, above that of the number decided, was much greater in the second period than in the first, both in the Zillah Courts and in those of the Moonsiffs.

ZILLAH COURTS.

	Instituted.	Decided.	Difference.
First Period - -	242,294	236,944	7,353
Second Period - -	241,045	228,386	12,659

MOONSIFFS.

	Instituted.	Decided.	Difference.
First Period - -	346,649	340,800	5,849
Second Period - -	416,080	406,283	9,797

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7. Within the last four years various means were adopted to provide for an increase of business. In the Sudder Adawlut, and in one of the Provincial Courts, additional Judges were appointed, the number of joint magistrates was increased, the office of magistrate was in several districts separated from that of the Judge, the powers of Moonsiffs and Sudder Ameens were enlarged, and the assistance of the Collectors was extensively afforded in the disposal of summary suits; but the want of European officers was so great, that in the year 1821 no less than twenty-four Zillahs were without Registers during the whole or a part of the year; and in May 1823 twenty-two Zillahs were without them. Adverting to this circumstance, to the number of suits, and to the pressure of criminal and miscellaneous business before the Courts, it is plain that, in the period under review, the Judicial Administration was very inadequate to the wants of the country.

8. In the Resolutions of Government, dated the 1st May 1823, it is recorded, that the urgent demands of the public service in other branches of the administration, rendered it impracticable to augment the number of European officers employed in the judicial department; but it does not seem to us that this embarrassment furnished any good reason for neglecting the arrear. Such expedients as the nature of the case admitted, should have been resorted to, and they should have been applied without delay. . .

9. We observe that the annual Reports of the Sudder Adawlut for 1821, 1822, 1823, 1824, were not forwarded to Government till December 1822, October 1823, December 1824, and September 1825; and that Orders were not passed on them till May 1823, December 1823, March 1825, and January 1826, respectively. It was not until the 10th December 1824, that the Sudder Adawlut recommended the temporary appointment of a fifth Judge to the Calcutta Provincial Court; but it is recorded on the Resolutions of Government, dated 10th March 1825, that, relying on the increased exertions of the Judges of that Court, the Governor-general in Council did not think it necessary to appoint a fifth Judge, although the measure would doubtless be desirable if the state of the Civil Service would conveniently admit of it. When we advert to the state of the file of that Court, on which there were many suits of several years standing, to the steps taken for enabling the Judges and Magistrates to devote more time to their principal duties, and especially to the separation of the offices of Judge and Magistrate in four Zillahs of the division, by which the business of the Provincial Court might have been expected to increase materially, we cannot but think that some measures for reducing the arrear and preventing its further accumulation were most urgently required. It was not, however, till the 12th January 1826, when the arrear had greatly increased, that the Government resolved, on a suggestion of the Chief Secretary, to appoint a fifth Judge. The business of the Court had been for some years progressively increasing, as the following Statement, including regular Suits, original and appealed, will show:—

YEARS.	Suits Instituted.	Suits Decided.	Suits Depending at the End of the Year.	Delay, according to the rate of Decision in the preceding Year.	Delay, according to the Average of the Four Years.
1821 - -	292	230	628	2¾ years - -	4 years.
1822 - -	283	186	725	3 years 10 months	4 years 7 months.
1823 - -	217	138	804	5 years 10 ditto -	5 years 1 ditto.
1824 - -	261	73	992	13 ½ years -	6 years 4 ditto.

10. In November 1825, the arrear had increased to 1,038, exclusive of summary suits.

11. We are not aware that in 1825, or even at an earlier period, there was any greater difficulty in providing a relief for the Provincial Court than in 1826. If, for the temporary assistance of that Court, it was impracticable to detach a Zillah Judge from a district where there was a Register who could supply his place, a part, or, if necessary, the whole of the original jurisdiction in civil suits might have been taken away from the Provincial Court, and transferred to the Zillah Judges, Registers, and Sudder Ameens; and as many additional Sudder Ameens as necessary might have been appointed. Objections might perhaps have been raised to any of these measures, but, at all events, something should have been done to remedy the evil.

12. In all the other Provincial Courts, except that of Moorshedabad, the state of the file is very unsatisfactory. In the Dacca Court, from the year 1821 to 1824, the number of suits decided annually fell short of the number instituted; at the beginning of the period the arrear was 112, at the end it was 167, and was increasing. In the Patna Court, in 1823 and 1824, fewer were decided than instituted; the arrear had increased from 419 to 513, and was increasing. In the Benares Court, from 1817 to 1824, fewer were decided than instituted, except in the year 1823; the arrear at the beginning of the period was 533, and at the end of it, 1,206, and was increasing. In the Bareilly Court, from 1818 to 1824, fewer cases

cases were decided than instituted, except in 1821; the arrear had increased from 54 to 346, and was increasing.

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(2.) Letter to the *Bengal* Government, 23 July 1828.

13. We remark that you have appointed temporarily a fifth Judge to the Benares Court; a measure by which the arrear will, we hope, be soon reduced.

14. In the Zillah of the Jungle Mehals, the arrear has for several years been progressively increasing, as follows: The regular Suits depending at the end of each year, were—

	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.
Before the Judge and Register - - -	281	381	686	773	908	1,286	1,482	1,726
Before the Sudder Ameens	461	761	1,516	1,966	2,022	2,408	2,611	3,150

And the summary Suits depending, were—

1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.
39	57	223	380	723	1,041	1,112	1,597

15. The separation of the offices of Judge and Magistrate in this district, which had been resolved on in June 1823, and was expected to secure a material diminution of the arrear, took effect in September 1823. The number of depending suits continued, nevertheless, to increase. On the date last mentioned, there were 1,899 regular and summary suits before the Judge; and in October 1825 they amounted to 3,023.

16. The accumulation of business was stated in the Governor-general's Minute of the 12th June 1823, to have been chiefly in consequence of the Revenue and Judicial functions having frequently and for considerable periods devolved on one individual; and in the Reports of the Sudder Adawlut, reference is made to the absence of the Judge or Register from the station, and to their being engaged in other duties. From these causes, the number of decisions was certainly much less than it would otherwise have been.

17. But, before it is assumed that an accumulation of suits cannot be prevented, or heavy arrear reduced, without an increase of the European Establishments, the nature of the suits depending, and those instituted in a given time, should be distinctly detailed. It is only by an analysis of the arrear, that we can know whether, under the existing regulations, it might be reduced by one or more Sudder Ameens, or whether the employment of Europeans is indispensable. If the Returns required under the Resolutions of Government dated 28th June 1815, and the Circular Orders of the Sudder Adawlut dated 14th September of the same year, were regularly furnished, the necessary information must have been before the Sudder Adawlut; and it might have been easily shown how far the means actually provided for the decision of the different classes of suits were applied advantageously; and the nature and extent of the means best calculated to dispose of the arrears might have been accurately determined.

18. Of 4,106 summary suits decided by the Judge and Register in the Jungle Mehals, from 1821 to 1824, 3,475, which were for land-rent, might, under the Regulations, have been referred to the Collector. Appeals from the Moonsiffs, of which 317 were depending before the Judge at the end of 1824, might have been referred to Sudder Ameens, amounting at the same period to 603, might have been referred to a Register with special powers. Original suits not exceeding 500 rupees value, might have been referred to Sudder Ameens, and those above that sum to Registers with special powers. We know not how many original suits of these two classes were depending, or whether any of them were so referred; but a great part of the Register's arrear may have been within the jurisdiction of the Sudder Ameens, and that of the Judge within the jurisdiction of the Register. It is of course desirable that, when circumstances will permit, a certain number of appeals from the Moonsiffs should be retained on the file of the Judge or Register; but, when the arrear is great, they should be disposed of as the Regulations direct, with as little delay of justice as possible.

19. It may not always be practicable to provide as many Registers, with or without special powers, as are required; but the number of Sudder Ameens may be increased at any time; and we trust that by a prompt and careful distribution of the business, and the appointment of a sufficient number of Sudder Ameens, the ordinary judicial duties of most Zillahs may be adequately performed, notwithstanding casual interruptions. At all events, we expect a sufficient explanation in every instance where such measures are stated to have been found insufficient.

20. In this respect, however, the Orders and Reports on the business of the Jungle Mehals appear to us to be remarkably defective. On one occasion, the Sudder Adawlut suggested

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that a Sudder Ameen might have special powers; and on another, that a Register might have special powers, if necessary; but a reference to the actual state of the business would have shown precisely the extent to which such nominations were required. These measures having been suggested for a specific purpose, and that purpose not having been effected, the succeeding Reports should have conveyed some intimation whether they were or were not adopted, or some explanation for their being unsuccessful. But the subject is no further noticed, either by the Sudder Adawlut or by the Government. In three successive years the Sudder Adawlut suggest that the aid of the collector may be had for disposing of summary suits; yet in no subsequent Report or Order is there any notice of the same suggestion having been made before, although it certainly had not been complied with.

21. No use seems to be made of the monthly Reports of suits, decided and depending, at the end of each month, which are laid before Government; they are prepared very irregularly, and on one occasion we have seen eight Reports received together; they are sent up without any remarks from the Sudder Adawlut, and a letter accompanies them, always in the same words. The orders passed on them by Government are invariably the same; viz. "The Governor-general in Council observes, that the foregoing letter does not require any orders." If these documents are intended merely for record, the yearly Reports, we should suppose, would answer the same purpose.

22. Our remarks in reference to the arrears of the Jungle Mehals being applicable, in a considerable degree, to those of other districts, we think it unnecessary to enter upon further details on the subject; we cannot, however, pass wholly unnoticed the immense number of appeals from Sudder Ameens on the file at Burdwan, amounting, at the end of 1824, to 2,206, which is nearly as great as that of all the other Zillahs of the division taken together. In most of those districts the arrears of the appeals are moderate; in one of them, the suburbs of Calcutta, they were, for the last four years, from 40 to below 70. We cannot account for so great an accumulation at Burdwan, unless on a supposition that they have not been sufficiently attended to for many years.

23. When, as has frequently occurred in the period under review, districts are left for a considerable time with only one European judicial officer, and even that officer not always devoted to judicial duties exclusively, every effort must be made to keep down the business by the course above pointed out; but when those means are found insufficient, it becomes indispensably necessary to extend the agency of natives. We are of opinion, therefore, that the Regulations should authorize the occasional appointment of Sudder Ameens of a superior class, whose jurisdiction might generally correspond with that now belonging to Registers with special powers; that is to say, they should be allowed to decide all original suits from 500 to 5,000 rupees value, and appeals from Sudder Ameens of an inferior class. We shall not, at present, enter into an examination of the objections you have urged against giving Sudder Ameens authority to dispose of all civil suits in the first instance; but when we consider the extent to which those officers are now trusted, and, as we understand, very deservedly trusted; when we advert to the securities which are provided for the due performance of their duties, and to the opinion you have expressed as to the expediency of enlarging their powers, we cannot but think, that in order to prevent the great evil of delay of justice, the measure we have suggested might with perfect propriety be resorted to on any occasion when the want of agency of that description came to be seriously felt.

24. Thus a great increase of judicial business in the Zillah Courts might be provided for; and we conceive that if the Zillah Courts generally were kept clean of arrears, there would be no difficulty in affording the services of a Zillah Judge for occasional relief to a Provincial Court. We suggest, for your consideration, whether it may not be expedient to limit the original judicature of the Provincial Courts, or to take it away entirely, leaving them as they were formerly, mere courts of appeal; an arrangement which we apprehend would afford them great relief, without adding to the Zillah Courts more than would be amply compensated by extending the power of the Sudder Ameens.

25. In addition to the regular Suits, the number of summary Suits instituted and decided in the Zillah Courts, from 1821 to 1824 inclusive, and depending at the end of each year, was as follows:—

YEARS.	Instituted.	Decided.	Pending.
1821 - - -	49,790	39,191	25,436
1822 - - -	53,336	39,566	30,150
1823 - - -	42,977	39,230	27,681
1824 - - -	44,730	42,397	21,902

26. It will be seen that about two-thirds of these are for land-rent; the rest are for dispossession, and miscellaneous suits.

27. We

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(2.) Letter to the *Bengal* Government, 23 July 1828.

27. We observe that in the decision of summary suits before the Provincial Courts, and in those for dispossession before the Zillah Courts, the delay is very considerable.

28. Adverting to the immense number of these cases decided in the Zillah Courts, and to the large proportion of them which in some instances have been dismissed for default, we think it necessary that you should require the Sudder Adawlut to pay particular attention to the manner in which summary suits are disposed of.

29. Questions of land-rent may, in the first instance, be the subject of a summary or of a regular suit, at the option of the plaintiff. After the determination of the summary suit, the same cause may be again tried as a regular suit, from the decision of which there is also an appeal. The disadvantage of this course is, that it subjects parties to three sets of law proceedings instead of two; and that the summary process being ill-defined, is necessarily arbitrary. The great benefit expected from it is that of speedy decision; but the investigation may have been superficial, and the only purpose of the subsequent regular suit and appeal is to correct the presumed errors of the summary suit. It is evident, therefore, that if the regular Judicature were as expeditious as the summary, the latter would be superfluous.

30. The following Tables show the number of summary Suits for land-rent, which were disposed of by the Judges and Registers, and by the Collectors, from 1821 to 1824, the number depending before them at the end of each year, and the average delay according to the rate of deciding in the preceding year:—

Before the Judges and Registers.

YEARS.	Decided.	Depending at the end of the Year.	Delay.
1821 - - -	26,308	16,754	9 months.
1822 - - -	23,727	20,703	9 months.
1823 - - -	25,262	18,669	Not 9 months.
1824 - - -	27,082	14,052	Not 6¼ months.

Before the Collectors.

YEARS.	Adjusted or Decided.	Depending.	Delay.
1821 - - -	4,673	3,810	Near 10 months.
1822 - - -	6,496	6,370	Near 12 months.
1823 - - -	7,406	5,180	Near 8 months.
1824 - - -	8,211	5,081	About 7 months.

31. The delay here exhibited is much less than that in the regular Courts of the Judge and Register, but it is as great as that in the Courts of the Sudder Ameens, and is considerably greater than that in the Moonsiffs' Courts, which, for the last four years, has been less than six months. We suppose that a very large proportion of suits for land-rent must be cognizable by Moonsiffs; and we conclude that if the summary jurisdiction in these cases were abolished, and some provision made for the speedy trial of such of them as cannot be brought into the Moonsiffs' Courts, there would be less delay of justice than under the present system; and that a part of the time of the Judges and Registers, which is now employed on the trial of many thousands of summary suits annually, would be rendered available for other duties.

32. We remark that you did not expect Regulation 14. of 1824, by which Collectors are empowered to decide summary suits for land-rent, would extend any very effectual assistance to the Judicial authorities; but you resolved to postpone, until the operation of that Regulation should have been seen, the consideration of a proposal that had been made to empower Sudder Ameens to dispose of summary suits. Whatever may be the force of the objections urged against transferring the cognizance of summary suits to Sudder Ameens, the propriety of referring to them regular suits substituted for summary, would not, we conclude, be questioned. Such cases may now be referred to them; and indeed it would be inconsistent to suppose that a Sudder Ameen cannot safely be trusted to decide a question of rent, although he may be trusted to determine the right of property in the land out of which it proceeds, the securities for the due performance of his judicial functions being precisely the same in both cases. The Regulations require Judges to encourage parties to institute regular suits for land-rent before Moonsiffs, rather than summary suits in the Zillah Courts;

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thus recognizing as a principle, that it is better for the parties to dispense with the summary suits. But if such suits are indeed injurious to those immediately concerned in them, as they are certainly most inconvenient to the public service, it is difficult to understand why they should not be abolished.

33. We desire, therefore, that you will take into consideration the expediency of abolishing the summary process in suits for land-rent; observing, however, that the regular process shall not be more expensive, more tedious, or in any way more vexatious, than that for which it is substituted.

34. Upon the proceedings which led to the passing of Regulation 2. of 1825, we think it necessary to make a few remarks.

35. In our Letter of the 9th November 1814, we conveyed to you our sentiments on the inconveniences resulting from the admission of too great latitude of appeal; and we learned from a Report made to your Government by the Sudder Adawlut on the 9th of March 1818, that these sentiments had met your concurrence; our suggestion for a more strict limitation of Appeals having been anticipated by the provisions for regular and special appeals contained in certain Regulations of the year 1814.

36. We observe, however, that in the year 1819 you very unadvisedly, as experience has shown, thought proper to suggest to the Sudder Adawlut, an extension of the Rules for the admission of special appeals; and having obtained their concurrence, you passed a Regulation for that purpose, by which the previously existing Rules limiting to certain specific grounds the admission of special appeals, were done away, and an unlimited opening was afforded for the presentation of petitions.

37. The consequences proved such as might have been easily foreseen; a dissatisfied party in a suit had only to present a petition, alleging a failure of justice; the time of the Judges was occupied in the consideration of multitudes of these petitions, and the evils of an accumulation of undecided causes in the Superior Courts were greatly aggravated.

38. In this state of things, your reverting to the rules previously in force, or adopting some other remedy, was a matter of obvious expediency.

39. We by no means consider an unlimited use of the right of appeal to be of any real benefit to the community; it necessarily tends to keep alive the spirit of litigation by encouraging suitors to look to the decision of another tribunal than that before which the suits are originally tried.

40. On the other hand, a party fairly desirous of having a decision against him revised by a superior Tribunal, should not be obstructed in obtaining it; but with regard to second or special appeals, we think that it is only upon very strong and specific grounds, and under certain responsibilities, that he ought to be entitled to claim a further protraction of the litigation.

41. We therefore approve generally of the provisions of Regulation 2. of 1825.

42. We observe the Reports of the Superintendent and Remembrancer of Legal Affairs on the state of the government business in the several courts, for the period under review, do not call for any particular remark. They are, on the whole, satisfactory.

43. We desire you will no longer neglect to furnish us with complete printed copies of the Circular Orders of the Sudder Dewanny and Nizamut Adawluts; and we direct you to send copies to the Governments of Madras and Bombay, for the use of the Judicial Establishment at those Presidencies.

We are

London, 23 July 1828.

Your affectionate Friends,

(signed) *W. Astell.*
John Loch, &c.

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(3).—COPY of a LETTER from the Court of Directors to the *Bengal* Government, dated the 30th March 1831.

(3.) Letter to the *Bengal* Government, 30 March 1831.

ANSWER to LETTERS dated 27th April and 18th May 1830.

1. WE now reply to your Letters of the 27th April and 18th May 1830. The former relating to the Police of the Lower Provinces for 1827 and 1828, and the latter to the Police of the Western Provinces for the same years.

2. The

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(3.) Letter to the *Bengal* Government, 30 March 1831.

2. The number of the principal heinous crimes, ascertained to have been committed in these two years, compared with the number in the two preceding years, is as follows:—

	In 1825 & 1826.	In 1827 & 1828.
LOWER PROVINCES.		
Decoity, with murder	37	26
Ditto, with torture or wounding	105	98
Simple Decoity	204	221
Highway Robberies, and other predatory offences, with murder	78	70
Ditto - with wounding	89	96
Ditto - without personal violence, the property taken exceeding 50 rupees value	2,715	2,482
Wilful Murders	224	196
Homicide, not amounting to murder	230	248
Affrays, with loss of life	42	47
WESTERN PROVINCES.		
Decoity, with murder	23	32
Ditto, with wounding or torture	57	27
Simple Decoity	55	34
Highway Robberies and other depredations, with murder	227	178
Ditto - with wounding	611	485
Ditto - without personal violence, the property taken exceeding 50 rupees value	3,696	3,396
Murder by Thugs	77	61
Wilful Murder	199	255
Homicides, not amounting to murder	109	185
Affrays, with loss of life	101	118

3. In the Lower Provinces, therefore, there was in the last two years, as compared with the two preceding, an increase under the heads "Simple Decoity," "Predatory Offences, (not Decoity) with wounding," "Homicide, not amounting to murder," and in "Affrays with loss of life;" and under the other heads a decrease. In the Western Provinces there was an increase under the heads "Decoity, with murder," "Wilful Murder," "Homicide," and "Affrays, with loss of life," and a decrease under the others.

4. The inequalities in the amount of crimes were generally much more considerable in the Western than in the Lower Provinces. In the former, for example, there was an increase of 149 under the heads "Wilful Murder," "Homicide," and "Affrays, with loss of life;" and a decrease of 233 under the several heads of "Decoity," and of "Depredations, with murder and wounding," and of "Murder by Thugs;" while in the latter there was a decrease of five under the first of these two classes of crimes, and of two under the second.

5. On the whole, a comparison of the frequency of crimes during the two periods in both divisions, shows rather an improvement than a falling off; and the Reports for 1827 and 1828 do not appear to call for any particular remarks.

6. With these Reports the functions of the Superintendents of Police, who were appointed in 1808 and 1810, have ceased; and those of the Courts of Circuit are no longer to be performed on the principles established in 1793; the duties of Superintendents of Police and of Circuit Judges being now united with other duties in the persons appointed under Regulation I. of 1829, as Commissioners of Revenue and Circuit.

7. It would have been satisfactory to us to have received from you, on this occasion, an account of the apparent effects produced on the country by these institutions; but no remarks on the subject have been recorded by your Government, although they seem to have been called for by the following passage at the conclusion of the Report of the Superintendent of the Western Provinces: "I held the office of Superintendent in the Western Provinces for ten years, and have the satisfaction of leaving the police in a very different state to that in which I found it; an improvement to be attributed to the active exertions of the magistrates, supported and encouraged by the Government through my late office. I hope the present system will succeed as well, but I doubt it much, for many superintendents, with each a system, are not so good as one." We shall not here enter upon a discussion of the probable effects which this change may tend to produce on the whole judicial

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administration of the provinces; but it is obvious that the personal superintendence, by one man, of the police of 20 millions in the one case, and of 40 millions in the other, cannot have been as immediate and effective as we may reasonably expect that of the Commissioners of Revenue and Circuit to be, each of whom will have on the average the control of the police of about 3 millions; and we hope that their number may have no other effect than that of giving the desire, as it does the means, of rivalling each other in the good order of their respective districts.

8. In the Lower Provinces, the great reduction of decoity which was effected within the period in question, is an event too remarkable to be passed over in this place without particular notice.

9. In 1772, the Committee of Circuit, proposing to remove the chief seat of the revenue administration from Moorshedabad to Calcutta, said, "We omitted to mention the insecurity of the public Treasury and the public Records at Moorshedabad, an open, straggling town, which a few desperate decoits might enter with ease, and plunder at discretion, before any force could be called to repel them. An event of this kind is not the less probable from its not having yet come to pass. The town of Calcutta is not only sheltered against such dangers, but the Fort offers a most complete security both for public and private property, under all circumstances."

10. In 1802, decoity was spoken of by the Dacca Court of Circuit as follows: "Gang robbery, often aggravated by cruelty and sometimes by murder, though not carried near to the height it was ten years ago, seems still to be the crime most prevalent in this division. It is alleged that the opulent landholders in this division formerly retained great numbers of armed men, not only for the purpose of repelling the attacks of their hostile neighbours, but also to enforce payment of the rents of their estates from their under farmers and tenants; and that when the services of these armed bands became no longer necessary, from the increased security and protection which the laws afforded to persons of all descriptions under the British Government, they were paid off. Many of them from the Upper Provinces, as well as natives of Bengal, pressed by want on one hand, and allured by the hope of plunder on the other, as well as impelled by habits natural to their former course of life, (a life of violence, plunder and oppression) betook themselves to robbery, by which, and by occasionally hiring themselves to the Zemindars, to fight their battles for disputed crops and boundaries, they earn a precarious maintenance. Adverting to this state of things, at a period not long antecedent to the year 1793, it is no matter of astonishment to us that this terrible crime against the peace of society, called 'decoity or *gang robbery*,' should have gained the head it once had done, or having gained that head, it should still, though greatly lessened, remain to be subdued. It is in our knowledge that whole families have practised robbery from one generation to another; and so depraved and regardless are they of the most common distinction between good and evil, that they do not even consider robbery as a crime," &c.

Answer to Interr. p. 79, 80.

11. In 1812, the evil of decoity in Bengal was particularly noticed in the Fifth Report of the Committee of the House of Commons. The Committee referred to a Despatch from Bengal, dated in 1810, in which it was stated, that the commission of robberies and murders, and the most atrocious deliberate cruelties, was established; that these offences were not of rare occurrence, or confined to particular districts; they were committed, with few exceptions, and with slight modifications of atrocity, in every part of Bengal. The Committee adverted to the endeavours of the Government from 1801 to 1807, to suppress decoity, and they remarked:—"But notwithstanding these measures, the disorders which they were intended to subdue still increased, and towards the end of 1807 had acquired such a degree of strength, as to oblige the Government to resort to measures much more forcible than had hitherto been tried for the deliverance of the country from this growing and intolerable evil." The Committee afterwards, referring especially to the new institution of Superintendent of Police, conclude as follows: "What has appeared in the latest intelligence on this subject, affords assurance, that after about two years experience of the efficacy of the new measures, decoity or gang-robbery had met with a check, and had been reported by some of the Circuit Judges to have happened less frequently in most, and to have ceased in some, of the Bengal districts, where antecedently it had prevailed in the greatest degree. It is earnestly to be hoped that these assurances may be confirmed by experience."

12. The following Statement will show that those assurances have been confirmed:—

YEARLY AVERAGE NUMBER OF DECOITIES:

From 1803 to 1807 inclusive	1,481
From 1808 to 1812	927
From 1813 to 1817	339
From 1818 to 1822	263
From 1823 to 1827	184
1828	167

13. On the Superintendents of Police and the Courts of Circuit, the extent to which crimes have prevailed must in a very great degree have depended; for to them, and to the officers under them, belonged the administration of by far the most material part of the criminal law, and all the police. To those functionaries, and to the Nizamut Adawlut, and the Government,

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(3.) Letter to the *Bengal* Government, 30 March 1831.

Government, under whose superintending authority and support they acted, may therefore be attributed the credit of at least checking that dreadful scourge, which had heretofore afflicted the country for so long a course of years, in spite of the exertions of former Governments.

14. The Report of the Superintendent of Police for 1818, from which the three first numbers in the foregoing statement are taken, shows also a great and progressive reduction in the number of murders and of violent affrays, attended with murder or homicide.

15. The periodical reports of the Superintendents of Police, compiled from Returns made by the magistrates, who received their information from the police darogahs, and such other sources as were available to them, show, with as much accuracy as could reasonably be expected, the number of crimes ascertained to have been committed in each district in every year. On these Reports the proceedings of the Courts of Circuit have formed a useful check; and every endeavour has been made to obtain the best information of the actual number of crimes, and to arrange them in the statements as correctly as circumstances would permit. It must however sometimes happen, that in particular districts crimes are committed which do not come to the knowledge of the magistrate; nor is it always practicable to refer every reported offence to its proper head. Instances of the concealment of crimes have been occasionally noticed in your Letters, and have been animadverted on by us. Many years ago, such instances were of frequent occurrence, and it was by some accident only, after a long interval, that the fact was discovered; but it is probable that for a considerable time not many of the most atrocious crimes, such as murders and homicides, depredations attended with open violence, and affrays with loss of lives, have been perpetrated, which have not been included in the statements of the superintendents. In regard to crimes of inferior atrocity, little reliance can be placed on the statements; and doubtless in every district numberless petty offences are committed, which are never heard of beyond the immediate neighbourhood of the place where they occur. Desiring to confine ourselves to those accounts which afford results least likely to be deceptious, we shall, in the following remarks, refer to no Reports before those in 1818; in which year a change was made in the forms of the superintendents' statements, and some of the crimes were classed on an improved plan.

16. In the Lower Provinces, the number of the principal heinous crimes ascertained to have been committed from 1818 to 1828 was, according to the statements of the superintendent, as follows:—

LOWER PROVINCES.

	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.	1828.
Decoity, with murder	20	18	21	24	21	25	16	16	21	10	16
Ditto with torture	7	17	29	12	7	16	11	11	12	10	10
Ditto with wounding	41	67	53	34	40	32	39	38	44	37	41
Simple Decoity	134	212	141	141	105	118	117	89	105	121	100
River Decoity	15	25	18	16	19	12	19	–	–	–	–
TOTAL DECOITY	217	339	262	227	192	203	202	154	182	178	167
With Murder. Highway Robbery	3	9	9	12	7	5	8	13	10	6	13
With Murder. Burglary	2	2	2	2	–	2	2	6	1	3	1
With Murder. Cattle-stealing	2	–	–	1	–	–	1	–	1	1	–
With Murder. Theft	2	5	18	13	28	22	23	22	25	30	16
With Wounding. Highway Robbery	9	14	23	13	7	11	8	12	15	15	15
With Wounding. Burglary	10	8	14	9	6	13	21	11	17	14	18
With Wounding. Cattle-stealing	–	1	1	–	1	1	–	1	2	–	1
With Wounding. Theft	6	8	11	9	5	4	10	15	16	23	10
Without Personal Violence; property stolen exceeding 50 rupees. Highway Robbery	14	15	34	17	8	11	8	3	6	15	5
Without Personal Violence; property stolen exceeding 50 rupees. Burglary	657	692	659	607	686	686	646	596	586	564	505
Without Personal Violence; property stolen exceeding 50 rupees. Cattle-stealing	21	53	62	44	41	57	80	75	76	98	63
Without Personal Violence; property stolen exceeding 50 rupees. Theft	555	599	550	608	629	678	686	647	726	645	587
Wilful Murder	138	139	99	109	128	118	134	105	119	98	98
Homicide, not amounting to murder	50	74	75	90	99	86	72	131	100	126	122
Violent Affrays, attended with loss of lives, originating in disputes regarding boundaries, or the possession of lands, crops, wells, &c.	23	12	11	24	18	35	44	13	12	8	16
Violent Affrays, attended with loss of lives, originating in causes distinct from those mentioned in the preceding column	22	4	1	4	7	1	–	8	9	11	12

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17. Passing over the number of depredations of property exceeding 50 rupees value, attended with aggravating circumstances, (the accuracy of which may be doubted) and arranging the other numbers of the Table in an abridged form, we shall have the following Statement of the principal Crimes reported in periods of three years, from 1818 to 1826, with a column for those in the years 1827 and 1828:—

	1818 to 1820.	1821 to 1823.	1824 to 1826.	1827 & 1828.
Depredations, with murder	113	162	165	96
Ditto - with torture or wounding	319	220	283	194
Ditto - with open violence, but without personal injury	545	411	330	221
Decoity:				
Murder, without depredation	376	355	358	196
Wilful Murder:				
Homicide, not amounting to murder	199	265	303	248
Affrays, with loss of life	73	89	86	47

18. Corresponding Tables for the Western Provinces are as follows:—

WESTERN PROVINCES.

	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.	1829.
Decoity, with murder	8	18	10	14	20	12	19	11	12	20	12
Ditto with wounding or torture	21	26	16	10	17	13	22	22	35	14	13
All other Decoities, unattended with personal violence	14	26	20	15	16	22	28	18	37	14	20
TOTAL DECOITIES	43	70	46	39	53	47	69	51	84	48	45
Murder by Thugs	10	10	18	9	27	21	18	19	58	38	23
With Murder: Highway robbery, Burglary, Cattle-stealing, Theft	56	77	105	89	65	101	97	94	132	95	83
With Wounding: Highway robbery, Burglary, Cattle-stealing, Theft	311	320	306	278	177	211	211	267	344	251	234
Without Personal Violence, property stolen exceeding 50 rupees: Highway robbery, Burglary, Cattle-stealing, Theft	1,495	1,694	1,781	1,648	1,723	1,672	1,768	1,776	1,914	1,815	1,581
Wilful Murder	185	183	128	156	106	113	112	92	107	118	137
Homicide, not amounting to murder	61	88	88	92	93	119	102	101	108	86	97
Violent Affrays, attended with loss of lives, originating in disputes regarding boundaries, or the possession of land, crops, wells, &c.	25	35	44	47	41	33	40	21	36	22	35
Violent Affrays, originating in causes distinct from those mentioned in the preceding column	24	22	38	50	41	20	39	21	23	32	29

	1818 to 1820.	1821 to 1823.	1824 to 1826.	1827 & 1828.
Depredations, with murder	312	358	460	271
Ditto - with torture or wounding	1,000	706	901	512
Ditto - with open violence, but without personal injury	60	53	83	34
Murder, without depredation	496	375	311	255
Homicide, not amounting to murder	237	304	311	185
Affrays, with loss of life	188	232	180	118

19. The

19. The total number of Crimes in the two periods, and the yearly averages in each, were as follows:—

	LOWER PROVINCES.				WESTERN PROVINCES.			
	Total in 9 Years, ending with 1826.	Total in 1827 and 1828.	Yearly Averages		Total in 9 Years, ending with 1826.	Total in 1827 and 1828.	Yearly Averages	
			In 1st Period.	In 2d Period.			In 1st Period.	In 2d Period.
Depredation, with murder	440	96	48 $\frac{8}{9}$	48	1,130	271	125 $\frac{5}{9}$	135 $\frac{1}{2}$
Ditto - with torture or wounding	822	194	91 $\frac{3}{9}$	97	2,607	572	289 $\frac{6}{9}$	256
Ditto - with open violence, but without personal injury	1,286	221	142 $\frac{8}{9}$	110 $\frac{1}{2}$	196	34	21 $\frac{7}{9}$	17
Murder, without depredation	1,089	196	121	98	1,182	255	131 $\frac{3}{9}$	127 $\frac{1}{2}$
Homicide, not amounting to murder	767	248	85 $\frac{2}{9}$	124	852	185	94 $\frac{6}{9}$	92 $\frac{1}{2}$
Affrays, with loss of life	248	47	27 $\frac{5}{9}$	23 $\frac{1}{2}$	600	118	66 $\frac{6}{9}$	59

20. Decoity, the great crime of the Lower Provinces, is comparatively infrequent in the Western Provinces; but many offences which would be called decoity in the Lower Provinces may have been classed under different heads in the Western; and it appears that, taking the whole of the depredations attended with personal violence, the numbers in the Western Provinces greatly exceed those of the Lower; the former amounting, in eleven years, to 4,670, and the latter to 2,949. Distinguishing the aggravated cases of decoity, (that is to say, the cases attended with murder or torture, or wounding,) from the unaggravated, we shall find a much larger proportion of the aggravated, compared with the unaggravated, in the Western than in the Lower Provinces. The numbers were,—

	LOWER PROVINCES.		WESTERN PROVINCES.	
	Aggravated.	Unaggravated.	Aggravated.	Unaggravated.
1818 to 1820	273	555	99	60
1821 to 1823	211	411	86	53
1824 to 1826	208	335	121	83
1827 & 1828	124	221	59	34

21. Separating the offences reported to have been committed in the four Zillahs which constituted the Benares district, viz. Benares, Mirzapore, Juanpore, and Ghazeepore, from those in the remaining parts of the Western Provinces, called the Ceded and Conquered Provinces, the following numbers will be found:—

	In 9 Years, from 1818 to 1826.		Ditto, in 1827 & 1828.	
	Benares Zillahs.	Ceded & Conquered Provinces.	Benares.	Ceded & Conquered Provinces.
Depredations, with murder	146	984	30	241
Ditto - with torture or wounding	115	2,492	11	501
Ditto - with open violence, without personal injury	71	125	6	28
Murder, without depredation	124	1,058	21	234
Homicide, not amounting to murder	160	692	49	136
Affrays, with loss of life	114	486	20	98

The Yearly Averages of these numbers in the two periods being as follows:—

	Benares Zillahs.		Ceded & Conquered Provinces.	
	1st Period.	2d Period.	1st Period.	2d Period.
Depredations, with murder	16 $\frac{2}{9}$	15	109 $\frac{3}{9}$	120 $\frac{1}{2}$
Ditto - with torture or wounding	12 $\frac{7}{9}$	5 $\frac{1}{2}$	276 $\frac{8}{9}$	250 $\frac{1}{2}$
Ditto - with open violence, without personal injury	7 $\frac{8}{9}$	3	13 $\frac{8}{9}$	14
Murder, without depredation	13 $\frac{7}{9}$	10 $\frac{1}{2}$	117 $\frac{5}{9}$	117
Homicide, not amounting to murder	17 $\frac{7}{9}$	24 $\frac{1}{2}$	76 $\frac{8}{9}$	68
Affrays, with loss of life	12 $\frac{6}{9}$	10	54	49

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22. From these numbers alone the comparative prevalence of crime in the different divisions of the country cannot be known; it is necessary to consider also the extent of their population. The Lower Provinces are supposed to contain 40 millions of people, the Western may be estimated to contain about half as many; and of these the Benares Zillahs may have about five, and the Ceded and Conquered Provinces 15 millions. On this supposition, the crimes reported from the Lower Provinces arose from a population eight times as great as that of Benares, and two and two-third times as great as that of the Ceded and Conquered Provinces.

23. To reduce those numbers, therefore, to the standard of the Lower Provinces, those of the Benares Zillahs must be multiplied by eight, and those of the Ceded and Conquered Provinces by two and two-thirds. The result will show the comparative prevalence of crime in each division in proportion to its population.

24. In the following Table are given, first, the number of crimes, arranged as before, ascertained to have been committed in each of the three Divisions, in 11 years ending with 1828; and second, the numbers, calculated as above, for Benares and the Ceded and Conquered Provinces, showing what, according to the existing rates, they would have amounted to if the population of those Divisions had been equal to that of the Lower Provinces:—

	Total Offences in Eleven Years.			Rate of Crime, in proportion to the Population, reduced to the Standard of the Lower Provinces.	
	Lower Provinces.	Benares Zillahs.	Ceded and Conquered Provinces.	Benares Zillahs.	Ceded and Conquered Provinces.
Depredations, with murder - - -	536	176	1,135	1,408	3,026
Ditto - with torture or wounding	1,016	126	2,993	1,008	7,981
Ditto - with open violence, but without personal injury - -	1,507	77	153	616	408
Murder, without depredation - -	1,285	145	1,292	1,160	3,447
Homicide, not amounting to murder -	1,015	209	828	1,672	2,208
Affrays, with loss of life - - -	295	134	584	1,072	1,557

25. These calculations have no pretension to strict accuracy; but undoubtedly they approach to the truth. It is plain that the fluctuations in the prevalence of the most heinous crimes in the districts, and during the period here referred to, have not been such as to indicate any material unsteadiness in the execution of the laws, or sudden changes in the condition of the people; and that on the whole there has been an improvement. From these results, and from the check given to decoity and other crimes in the Lower Provinces, as above noticed, we must infer that the operation of the system, of which the institutions of Superintendents of Police and Courts of Circuit formed so important a part, was beneficial by preventing crime. We hope the new system may be found equally efficient.

26. It is also plain, that in the Ceded and Conquered Provinces the crimes referred to are very much more prevalent than in the Lower Provinces; and that in Benares they are in a middle state between those in the other two divisions.

27. In the Ceded and Conquered Provinces, depredations, with murder and wounding, were above six times more prevalent than in the Lower Provinces; affrays, with loss of life, above five times; and murder and homicide (without depredations), about two or three times. It is of importance to discover the causes of this great disparity. For the suppression of crime in all the provinces, the exertions of the local magistrates, and of their subordinates, of the Superintendents of Police, and of the Judges of Circuit, of the Nizamut Adawlut, and of the Government, were, no doubt, applied with equal zeal and equal ability. These functionaries were throughout either the identical individuals, or persons taken from the same classes of men, with the same means at their disposal; they administered the same laws, were bound by the same rules, and were probably actuated for the most part by the same principles, and the same general spirit and character. How then has it happened that the effects which they have produced in these countries are so different? The countries are in some respects obviously in different circumstances. They have not been equally long under our government; they are not equally distant from the supreme controlling and directing authority; they are not equally exposed to suffer from the neighbourhood of foreign ill-governed states; and their national character is not the same. One main point in which they differ is their revenue administration. How far that difference may assist in producing the effects to which we have alluded, we have not the means of knowing; but at all events, that is a branch of the subject involving too many considerations to be treated of incidentally, and in this department.

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(3.) Letter to the *Bengal* Government, 30 March 1831.

28. An assumption is sometimes made, and practical inferences drawn from it, that the people of the Ceded and Conquered Provinces are better off, and less criminal, than those in the Lower Provinces; but the facts to which we have adverted would seem to be irreconcilable with any such notion, and should not be overlooked.

29. There remain to be noticed the proceedings of the criminal courts, showing the number of persons convicted, the offences of which they were convicted, and the sentences passed, in the Lower and Western Provinces during several years. The documents furnished in your Letter, dated 5th February 1829, consisting of statements made out at the office of the Nizamut Adawlut, were intended to supply the necessary information on these points; but as they are not uniform, and several of them are in other respects imperfect, the following Accounts which we have prepared from them are unavoidably incomplete.

30. In regard to the courts of the magistrates, the only statements to which we shall here refer, are those for 1826 and 1827, which having been framed with great care, may be taken as more accurate than the others. According to these papers, there were in that period 44,523 persons sentenced to punishment by the magistrates and their assistants, in the Lower, and 32,820 in the Western Provinces.

31. The proportion of the offences against property in these cases, was as follows:—

	Lower Provinces.	Western Provinces.
Offences against property	21,228	19,293
Other offences, chiefly against the person	23,295	13,527

32. The punishments inflicted are stated to have been as follows:—

	Lower Provinces.	Western Provinces.
Imprisonment for two years	2,340	1,777
Ditto - for one year, and under two years	1,930	2,169
Ditto - for above six months, and under one year	64	237
Ditto - for six months and under	20,040	14,461
And of the above—		
To Fine	14,647	6,317
- Whipping	14,704	12,606
- Hard labour	13,211	12,473
- Dismissal, or suspension from office	1,887	929

33. The number of persons sentenced to imprisonment by the Courts of Circuit in the Lower and Western Provinces, without reference to the Nizamut Adawlut, from 1816 to 1826, were as follows:—

	1816 to 1818.	1819 to 1821.	1822 to 1824.	1825 & 1826 } 2 years.
Sentenced to imprisonment above seven years, not above fourteen	1,105	155	207	422
Ditto, seven years	1,635	359	638	492
Ditto, six years, and above two years	2,388	2,311	3,257	2,207
Ditto, two years, and above one year	1,056	960	845	490
Ditto, one year, and above six months	1,165	540	557	395
Ditto, six months, and under	844	547	400	259
TOTAL	8,193	4,872	5,904	4,265

Most of these persons were sentenced also to whipping, many to hard labour, and some to banishment from one Zillah to another.

34. The crimes for which they were punished may be classed as follows:—

	1816 to 1818.	1819 to 1821.	1822 to 1824.	1825 & 1826 } 2 years.
Various crimes against property	5,270	2,302	2,763	2,334
Crimes against the person, not against property	2,578	2,334	2,860	1,778
Other offences, viz. felony and misdemeanour, not otherwise described in the statements, and perjury	454	246	336	173

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35. The enactment of Regulation XII. of 1818, by which the magistrates were empowered to pass sentence in cases of burglary, theft, and receiving stolen property, not attended with aggravating circumstances, will account for the diminution in the number of trials for such offences before the Courts of Circuit. We learn from a Statement in your Letter of the 22d February 1827, that in the two years before Regulation XII. of 1818, took effect, the yearly average of cases of burglary in which sentence was passed by the Courts of Circuit was 1,099, and in the five subsequent years the yearly average was 369; and that similar results might be assumed with regard to the number of cases of persons charged with theft, and receiving stolen goods.

36. The statements of sentences passed by the Nizamut Adawlut are very carelessly made; they contain many obvious errors, and no abstract accompanies them. We desire you will call on the Nizamut Adawlut to supply a corrected copy of those documents, with a proper abstract for each year; classing the offences of punishments, as they have been classed in the abstracts for the Courts of Circuit, and distinguishing the cases of the Western Provinces from those of the Lower.

37. From these statements, we have extracted (with some trouble) the following Lists of Persons sentenced to Death, and to Transportation or Imprisonment for Life, from 1816 to 1827:—

DEATH.

	1816.	1817.	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.
Lower Provinces -	64	57	24	42	25	22	20	42	31	26	26	23
Western Provinces	51	57	30	52	30	36	30	35	20	40	41	32

TRANSPORTATION OR IMPRISONMENT FOR LIFE.

	1816.	1817.	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.
Lower Provinces -	213	214	158	240	224	189	103	56	89	51	70	96
Western Provinces	69	54	103	105	100	89	62	62	56	77	101	57

The first of these Lists refers to cases of murder, or offences attended with murder; for which alone the capital sentences were passed. The second refers to many cases of homicide, but in the first nine years chiefly to cases of gang-robbery. The remarkable decrease in the numbers for the Lower Provinces, is to be ascribed not only to the decrease of decoity, but also to the altered character of that crime; the gangs now seldom consisting of large bodies of men, as they did formerly. Moreover, since 1824, most of the trials for decoity, which till that time would have gone to the Nizamut Adawlut, were disposed of by the Courts of Circuit.

38. The mitigation of the criminal law, under Regulations XII. of 1818, and III. and XVI. of 1825, and the practice of the Nizamut Adawlut, will, we trust, be attended with the most salutary effects; and it is very satisfactory to observe, that there has been for several years a decrease in the number of capital sentences; the yearly averages of which, in periods of four years successively, will be found to have been as follows:—

	From 1816 to 1819.	From 1820 to 1823.	From 1824 to 1827.
Lower Provinces - - - - -	46 ¾	27 ¼	26 ½
Western Provinces - - - - -	47 ½	32 ¾	33 ½

39. In the two last years (1826, 1827) the yearly average in the Lower Provinces was only 24 ½; which, supposing the number of inhabitants of those provinces to amount to forty millions, is not more than one in 1,632,653 of the population. The yearly average for the last seven years, which was 27 ¼, gives about one in 1,472,550 of the population. The corresponding numbers for the Western Provinces, supposing these provinces to contain twenty millions of inhabitants, would be for the average of the last two years, which was 36 ½, one in 547,945 of the population; and for that of the last seven, which was 33 ¾, one in 592,592.

40. The capital sentences for murder in England and Wales, the population of which may be taken at thirteen millions, amounted, according to the Parliamentary Returns, to 110 in seven years, ending with 1828. This gives a yearly average of 15 ⅝, which is about one in 828,025 of the population. In France, according to official returns, extracts of which have been published in this country, there were, in 1826, 120 capital sentences for murder; this, supposing the population to be thirty millions, is one in 250,000.

41. The

41. The total number of persons executed in England and Wales in seven years, ending with 1828, was 456; the yearly average of which is 65¼. This is about one in 199,539 of the population.

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42. The total number of executions in the Lower Provinces in Bengal (supposing it to be the same as the number of capital sentences) is little more than one in 1,500,000 of the population.

(3.) Letter to the *Bengal* Government, 30 March 1831.

43. The facts above stated serve to confirm the remark contained in a former part of this Despatch, as to the comparative prevalence of heinous crimes in the two great divisions of the territory under the Bengal Presidency; and they give us the gratifying assurance that, in that country, but more especially in the Lower Provinces of Bengal, the most atrocious crimes are less frequent, and criminal justice is administered with much less severity, than in the most civilized states of Europe.

44. But notwithstanding these results, it is not to be doubted that there is still ample room for improvement in the police of both divisions of the territory under your Presidency; and to this great object your attention will, we trust, not relax.

We are your affectionte Friends,

London, 30 March 1831. (signed) *W. Astell*, *R. Campbell*, &c. &c.

(4.) Letter to the *Bengal* Government, 11 January 1832.

(4.)—COPY of a LETTER from the Court of Directors, to the *Bengal* Government, dated the 11th January 1832.

1. We now proceed to reply to the paragraphs of your Letters noticed in the margin, which relate to the administration of civil justice in the Lower and Western Provinces, in the years 1825, 1826 and 1827.

Para. 155 to 197 of Letter dated 30th August 1827;
Para. 125 to 127 of Letter dated 23d October 1828;
Para. 1 to 48 of Letter dated 18th August; and
Para. 1 to 12 of Letter dated 25th August 1829.

2. During this period, the number of regular suits instituted and decided, and of those depending at the end of each year, in the several courts, were as follows:—

	INSTITUTED.			DECIDED.			Depending, end of the Year.		
	1825.	1826.	1827.	1825.	1826.	1827.	1825.	1826.	1827.
Sudder Dewanny Adawlut	126	121	139	99	98	118	425	448	469
Provincial Courts - -	1,357	1,486	1,359	1,155	1,053	1,415	3,519	3,907	3,853
Zillah Judges - -	62,564	62,232	63,350	9,404	11,030	9,681	24,693	25,666	27,870
Registers - - -				5,195	6,184	6,022	11,680	11,666	10,378
Sudder Aumeens - -				44,330	45,041	45,986	35,700	34,404	34,965
Moonsiffs - - -	109,306	118,130	115,797	106,321	113,285	113,120	55,616	59,186	60,984
TOTAL - -	173,353	181,969	180,645	166,504	176,661	176,342	131,633	135,277	138,519

3. These numbers show, that in the courts of the European judges there is a delay of justice, which urgently requires to be remedied.

4. We observe with regret, that the arrear of suits in the Sudder Dewanny Adawlut is continually increasing; and that you were not prepared to pass any definitive orders on the suggestions of the judges, although they were of opinion that it was not practicable to effect any material reduction of their business, consistently with a due regard to the necessary control and superintendence which they were required to exercise over the lower courts.

5. Adverting to the immense amount of property in litigation before your courts, and to their excessive and continually increasing business; considering also that circumstances will not admit of any addition being made to the number of your European judges, or to the funds from which the expense of the administration of justice must be defrayed; it is essential that some decisive measures should be adopted for removing those pressing evils which have been so forcibly represented to you by the judges of the Sudder Dewanny Adawlut, and especially by Mr. Ross.

6. In regard to the Sudder Court, we know not how the object in view can, consistently with present arrangements, be attained by any other course than that which Mr. Ross has suggested; namely, by extending the powers of single judges, by adding to their numbers permanently, and by appointing supernumerary judges to reduce the arrear. Mr. Ross thought, that if there were no arrear, every appeal preferred to the court would be determined in a few months from the date of its admission; that for the reduction of the present arrear, two supernumeraries were necessary; and that for the official performance of the duties of the court there must be at least six permanent judges.

7. The public finances may not admit of all these officers being very highly paid, but the Sudder Court must nevertheless be kept in an efficient state; and it may be necessary that the

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the allowances of some of the judges, at least, should be on a reduced scale. There are indeed objections to the appointment of such officers on low salaries, but there are still more serious objections to the delay of justice, and in this case there seems to be no other alternative. If two of the youngest judges of the Sudder Court were to be allowed each a salary not exceeding that enjoyed by a judge of an inferior Court, their prospects of promotion on the departure of a senior judge, would be still sufficient to render their situations fair objects of ambition for most of the judicial servants. Supernumerary judges might be selected from any of the inferior courts, where they could be spared with least inconvenience; and the allowances for their temporary service in the Sudder Adawlut should be no more than an adequate compensation for their additional expenses. It is not, however, our intention to prescribe to you the adoption of the specific measures to which we have referred, more especially as we have recently directed you to consider the expediency of appointing for the Western Provinces a separate officer, with powers correspondent to those now vested in the Sudder and Nizamut Adawlut; and the adoption of that measure would materially influence the consideration of every question relating to the establishment of the Sudder Adawlut at the Presidency.

8. Mr. Ross says, that the accumulation of business in the Sudder Court is not to be ascribed in any degree to defect of system or of forms of procedure. "It is impossible" (he says) "to devise a more simple and less tedious process." We are not aware that any specific improvement of the forms has been proposed, but we conclude that every useful recommendation to that effect would be most readily adopted by your government and by the court. It is chiefly to a well-contrived distribution of the business, to a well-arranged and sufficient judicial establishment, and to a proper selection of officers, that we look for a reduction of all arrears, and for the maintenance of an administration of justice adequate to the wants of the people.

9. You have stated, that the separation of the office of judge from that of magistrate, has generally answered the purpose of effecting a reduction of the files of the judges' court, but that it has not been always practicable to adhere strictly to the plan. We know not whether, by confining the judge to the functions of the civil court, by making the registers magistrates, and by appointing natives to the office of register, this object might be attained without an increased expense; but it is of importance that in every Zillah the duties now vested in the judge and register, should be always as effectively performed as may be possible with the means at your disposal. Zillahs have been too often left without registers, owing to a deficiency, either in the qualifications or in the number of the junior civil servants; and it has happened that the whole or great part of the functions of judge, magistrate, register, and even collector, has been imposed on the judge alone. We must again press upon you the necessity of making arrangements for obviating such inconveniences. When registers cannot be appointed, Sudder Aumeens, with the full powers of registers, should be substituted for them, and the accumulation of suits in the courts of judges and registers should at all events be prevented by transferring them to tribunals where they may be decided without delay.

10. We remark, that on some occasions when arrears of civil suits have accumulated in the court of a Zillah judge, you have directed the judge to attend exclusively to the duties of the civil court, and have transferred the magistracy to the collector. Two instances of this proceeding have lately occurred in the Lower Provinces, viz. in Jessore and Beerbhoom.

11. In your Letters of 22d February 1827, and of 15th June 1830, you have assigned reasons which in your opinion appeared to militate against the general employment of collectors as magistrates in the territories under your Presidency; and we have already, in certain circumstances, sanctioned the transfer of the magistracy to the registers.

12. The question relating to the union of the functions of collector and magistrate, is one of the first importance, and ought to be decided with as little delay as possible. But it is of still greater consequence that a proper determination should be come to in regard to it; and as the measures proposed in the Report of your Finance Committee, of 12th July 1830, will of course bring the subject again under your consideration, we shall defer any further remarks till we are in possession of the result of your final deliberations upon it.

13. We are happy to observe, that there is an increase in the number of suits decided by natives. But the Sudder Aumeens are not yet sufficiently employed; and if, as you apprehend, the Zillah judges are disinclined to entrust them with the extended powers authorized to be vested in them under Regulation IV., 1827, the Sudder Dewanny Adawlut should require of those judges an explanation in every instance where it shall appear that there is on their files an accumulation of causes, which might under the Regulations be referred to a Sudder Aumeen.

14. Not knowing your intention in regard to the Provincial Courts of Appeal, and various other matters connected with civil justice, which you appear to have had in contemplation, as subsidiary to the enactments of Regulation I. of 1829, we think it unnecessary here to enter into further details on the subject of the paragraphs of your Letters now before us; expecting your promised Report in regard to your projected improvements in the administration of civil justice, and trusting that you will have paid due attention to the suggestions contained in our Letter of 23d July 1828.

We are your affectionate Friends,

(signed) *R. Campbell,*
J. G. Ravenshaw, &c.

London, 11 January 1832.

(5.)—COPY of a LETTER from the Court of Directors, to the *Bengal* Government, dated the 1st February 1832.

ANSWER to LETTERS dated 22d February 1827 and 15th June 1830.

1. WE now reply to your Letters, dated 22d February 1827 and 15th June 1830, referring to the Despatch dated 9th November 1814, in which we communicated to you our view of the principal defects of the Judicial System, and of the remedies they seemed to require.

2. It appeared to us at that time, that the existing provisions for the administration of justice under your Presidency were inadequate to their ends, and that in reference to the wants and necessities of the people, some changes were indispensably necessary.

3. Our detailed suggestions for improving the system in Bengal were much the same as those which we had proposed to the Madras Government in the Despatch dated the 29th April 1814; you were required to take into consideration the revival of the practices of native governments, and the making use of the ancient institutions of the country, in the manner pointed out. It was to the extensive employment of Punchayets, heads of villages, and heads of caste, and to the transfer to the collectors of an important portion of the functions, both civil and criminal, before exercised by the judges and magistrates, that substantial improvements in the administration of justice under your Presidency were looked for.

4. Having already intimated to you our dissatisfaction at the very long delay which has occurred before we could obtain from your Government a full and distinct answer to our orders, and thinking it unnecessary to enter upon any further discussion on the causes of the delay, we proceed to a consideration of your Letters above noticed.

5. In your Letter of the 22d February 1827, after adverting to our suggestions, and the grounds on which they were recommended, you have stated the objections to which you thought some parts of them were open; you have explained the extent to which you proposed to give effect to other parts of our instructions, or to measures directed to the same ends. Admitting the justness of many of our remarks, you have stated, that there were other causes besides those assigned by us, or those which could justly be attributed to the defective system of organization of the tribunals, by which the existing mass of litigation might be accounted for. Among these were the growing confidence of the people in the general proceedings of our tribunals; the increased population; the extended cultivation; the rise in the value of landed property; the progress of internal trade; and the general prosperity of the country. The delays in the proceedings of the courts you have ascribed, in part, to the want of moral principle in the natives, and especially to their disregard for truth in giving evidence.

6. The inadequacy of our civil tribunals to meet the demand upon them, you have referred chiefly to the precipitation with which the permanent settlement was carried into effect, without previously defining, and without providing such means as would have enabled the courts to ascertain the rights of the landholders and cultivators. You expected that, in the districts where the permanent settlement had not been introduced, the rules in force would, if it were found practicable to carry them into effect in the spirit and to the extent contemplated, go far to render the administration of justice in those parts simple and efficient. It is stated by your government, that in very few of those districts were the arrears of civil suits heavy; and when they were so, the cause was clearly traceable to local defects and irregularities in the past system of revenue management; that the real pressure upon our tribunals arose from the mass of litigation connected with the rights, tenures and interests of the occupiers of land; that it was now too late to apply an effectual remedy to an evil which might have been guarded against when the permanent settlement was made; but that it would be the anxious wish of the government to adopt such measures as might be feasible, with a view to define the rights and interests of the cultivators.

7. You have given it as your opinion, that the employment of potails, or heads of villages, in the way suggested by the court, was not applicable to the circumstances of the country under your Presidency; that the Punchayet, though highly useful in regulating matters of caste and religious discipline, had long been disused as a tribunal for the settlement of claims to property; and in your opinion it was advisable to permit the natives to adhere to their customary mode of assembling a Punchayet, when they voluntarily submitted to its decision, and to restrict the interposition of the established courts to cases in which their aid might be applied for. You were, however, sensible of the absolute necessity of employing natives extensively in the administration of civil justice, and of increasing the powers of the Moonsiffs and Sudder Aumeens.

8. You have adverted to our remarks in limitation of appeals, forms of pleading and process, vakeels, and law expenses, in regard to which such steps had been taken as were thought best suited to the ends of justice.

9. In order to facilitate the adjudication of civil suits, measures, you inform us, were adopted for the formation and preservation of an accurate record of the rights and interests

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of the owners and occupiers of land; and the revenue officers were vested with certain judicial powers, with a view to determine cases involving such rights, and various matters connected with the revenue.

10. After noticing the above and other measures, which were calculated to relieve the civil courts from a part of their business, you have given it as your opinion, that it would be impracticable, as a general measure, to transfer the duties of magistrate to the collector, without abandoning objects essential to the interests and happiness of the community.

11. You concurred with us as to the necessity of the village establishments for the preservation of a good police, regretting the resumption of their lands, and the ill-defined and insecure state of what remained to them in the Lower Provinces; and you state that the collectors and magistrates, in the districts where the permanent settlement had not been made, were urged to maintain those institutions in an efficient manner. You have adverted to various steps taken for the improvement of the police, by modifying and extending the authority of the magistrates and of the superintendents of police, and by arranging and defining the duties of the police darogahs, and of the landholders, farmers, munduls and village watchmen, in matters connected with police.

12. You have noticed some cases in which you thought it expedient to give the collector magisterial powers; in some instances to vest the jurisdiction of civil judge and of a collector of revenue in the same officer; and occasionally to separate the office of magistrate from that of Zillah judge.

13. You were of opinion, however, that in every Zillah the business might be conveniently distributed among the judge, the collector and the magistrate, as separate officers. We shall again refer to this subject in a subsequent part of the present Despatch.

14. In regard to the cognizance of petty offences, you were of opinion that sufficient provision was made by the power vested in the magistrates, to refer such offences for trial to the law officers and Sudder Aumeens, and that it was not desirable to establish numerous tribunals throughout the country for the reception and trial of complaints of that description.

15. You have pointed out various rules recently enacted for improving the administration of criminal justice; petty thefts and misdemeanours having been made cognizable by the Sudder Aumeens, numerous cases, formerly cognizable by the Court of Circuit only, having been made over to the magistrates, and many classes of cases which were before referrible to the Nizamut Adawlut, having been subjected to the final sentence of the Court of Circuit. You have stated, that the higher European tribunals having been thus relieved, the administration of criminal justice was rendered more prompt and efficient; prosecutors and witnesses in numerous cases were relieved from a double attendance at the Zillah Court; that the improved state of the police had enabled Government to mitigate and define the extent of the penalties annexed to many heinous crimes; that every precaution had been taken to prevent abuses of power on the part of the police officers, and to secure the impartial investigation of charges, and the humane treatment of prisoners; that the chief defects of the Mahomedan law had been corrected, and that the administration of criminal justice in all its branches, was superintended with a degree of vigilance which precluded the hazard of serious errors and irregularities being long continued without detection.

16. You have remarked, that the habitual disregard for truth which pervades the bulk of the native community, was the great cause of failure in the administration of civil and criminal justice, and that the evil could not be effectually remedied until the inhabitants had undergone a great moral regeneration.

17. The country subjected to the Code of Regulations is described as consisting of forty-seven districts, each containing on an average more than a million of inhabitants; the area of a district being about 5,000 square miles, and the extreme length and breadth of several of the largest districts being about 158 miles by 100. The inconvenience formerly resulting from the extent and population of several of the largest districts, had been remedied by stationing a register or sub-collector, with powers of a joint magistrate, and with local jurisdiction over a portion of the district remote from the Sudder station.

18. You have stated that, in your opinion, the natives cannot safely be intrusted with judicial authority, civil and criminal, without subjecting them to European supervision and control, and that the administration of civil justice has been impeded by the paucity of officers employed; that the difficulty of supplying competent persons to fill the highest situations increases every day; and that to secure the efficiency of the civil administration a proper selection on the first admission of individuals into the service should be attended to. You add, that unless admission to the service in the first instance is made the reward of talents, industry and good conduct, some of the highest offices must occasionally fall into the hands of individuals possessing very moderate qualifications.

19. You think it essential to the efficiency of the Government, that the higher classes of natives employed in the civil administration should be better qualified than at present by education and habits of business, and that they should be allowed emoluments sufficient to insure a faithful discharge of duty.

20. You

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(5.) Letter to the *Bengal* Government, 1 Feb. 1832.

20. You have referred to numerous works of late years, compiled in the English and Native languages, under the sanction of Government, as evincing your anxiety to promote the general dissemination of a knowledge of the Regulations, and of the principles on which the administration of civil and criminal justice is conducted.

21. With the exception of a few points, which will be noticed further on, we think it unnecessary to enter upon a detailed discussion of the explanations and opinions adverted to in the foregoing summary of the principal parts of your Letter of the 22d February 1827; nor shall we here notice the various measures connected with the judicial system, which have been subsequently adopted by your government. On most of these, indeed, our sentiments have been already communicated to you.

22. Your Letter of the 15th June 1830, relating entirely to your correspondence with the Madras government, on the operation of the system introduced under that Presidency in 1816, does not require any particular notice in this place. We learn from it, however, that the beneficial effects of the agency of natives, as District Moonsiffs and Sudder Aumeens, are fully acknowledged, although in other respects the Report from Madras is not favourable.

23. After an attentive consideration of the foregoing documents, we see no reason to regret that you suspended the execution of our suggestions in regard to the institution of village Moonsiffs and Punchayets, and to the transfer of the magistracy to the collectors. On the former of these two points, any further discussion is rendered unnecessary by the remarks contained in paragraphs 22 to 72 of your Letter of the 22d February 1827 and in the Report of the Madras Sudder Adawlut, referred to in your Letter of the 15th June 1830.

24. Your remarks on the suggested transfer of the magistracy to the collectors, require separate notice. After adverting to the arguments opposed to this measure, on the ground of its being a very extensive innovation on a long established system, and a violation of the principle on which the civil administration of 1793 was regulated, you recapitulate the practical objections which had been most generally urged against it, and which were summed up by the Sudder Dewanny Adawlut and Nizamut Adawlut under twelve heads. We may here observe, that the duties now assigned to the collectors and to the magistrates, are very different from those vested in them in 1814, when we proposed that they should be united. The powers of each of these classes of officers have been much extended since that time, and any plan for uniting them at present must involve a consideration of the expediency of making a new distribution of authority, and of establishing new checks. Hence the question has become much more complicated than it was many years ago. Having declared yourselves decidedly adverse to any general introduction of such a plan, you inform us, that you are nevertheless of opinion, that considerations, connected with local circumstances, the character of individual officers, and the comparative pressure of business on the judicial and revenue officers, may render it expedient in particular instances to invest the collector with the powers of magistrate; and you mention several cases in which the duties of the two offices have been intrusted to one person.

25. You then refer to instances in which you had appointed separate magistrates, and you state that the practical advantages which had resulted from the experiment, had fully realized your expectations. Such an arrangement under which the chief European officers of a Zillah would be the judge, the collector, and the magistrate, each having his separate and appropriate duties, you consider to be, more than any other, calculated to correct the most prominent defects in the management of the police, and in the administration of civil and criminal justice, and you have solicited our particular attention to the plan, earnestly wishing to see it as generally adopted as possible.

26. You state, that if this principle which you advocate, and which is supported by the recommendation of so many of your best informed public officers, should, as you earnestly hope it may, meet our sanction, you should propose to introduce it at present only in those districts where the pressure of civil and criminal business may render it more particularly necessary, and to extend it gradually, as circumstances might suggest. "We feel satisfied (you add) "that under such a system, every branch of internal administration would be invigorated and improved, and that the labour of the European functionaries would, by such a distribution and division of power, be employed with infinitely more benefit to the interests of the community and to the credit of your administration, than by any other plan which could be devised, short of the multiplication of that class of officers, and of the extensive subdivision of the large districts now intrusted to them."

27. In our Despatch of the 30th April 1828, we sanctioned the appointment of separate magistrates, wherever that arrangement might be absolutely necessary for the due administration of justice, intimating to you our opinion, that, in ordinary cases, the existing establishment, with such occasional aid as might be easily provided for slight temporary emergencies, might be sufficient for the Zillah courts. Anxious as we are that the establishments for the administration of justice in the Zillahs should be put on the most approved footing, we should, if the state of the public finances permitted, authorize you to subdivide the districts, and to multiply European agency, so that there might be separate judges, magistrates and collectors in each subdivision; but that course being at present impracticable, the alternative which you have proposed must be adopted; and we accordingly direct,

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direct, that in the existing Zillahs, the ordinary European establishment consist of a judge, a magistrate and a collector, each having his proper functions, with the requisite assistants.

28. We do not mean to direct, peremptorily, that this arrangement be carried into effect in every Zillah, (for it may happen in particular instances that the union of the offices of collector and magistrate may be expedient,) but that it be considered as the general rule, all deviations from which will require a distinct explanation from you.

29. We trust that this plan will be attended with but little, if any, additional charge; for the salary of the register will be saved, and the increased receipts by sale of stamped paper, (which, by the separation of the magistracy, in one district amounted to an excess of near 6,000 rupees in a year,) will no doubt be considerable.

30. On the subject of the extension of native agency in the administration of justice, our sentiments are well known to you. The civil jurisdiction of the Sudder Aumeens, now extended to suits of 1,000 rupees value, includes a very large proportion of the litigation of the country; and you are aware that we have never prohibited you from enlarging their jurisdiction to any extent which you may think advisable. Their powers in criminal cases will, we presume, be, if necessary, increased; and you will have observed from the instructions contained in our Letter of the 23d July 1828, that it is our wish to extend the agency of natives to a large class of those cases now described as summary suits. In respect to the establishments of the Sudder Dewanny Adawlut and Nizamut Adawlut, our sentiments have been already made known to you.

31. The arrangements which, under Regulation I. of 1829, you have carried into effect, render it difficult for us to determine any practical plan for the improvement of the institution of circuit judges; nor are we sufficiently informed of your further intentions to enable us to give specific instructions in regard to the provincial courts.

32. Our attention has been particularly attracted to those parts of your Letter of 22d February 1827, which advert "to the precipitation with which the permanent settlement was carried into effect, without previously defining the relative rights and interests of the zemindars and other landholders, and the various classes of the cultivating population, or without providing such means as would have enabled the courts of judicature to ascertain those rights and interests, by recourse to recorded documents in those controversies which form, directly or indirectly, not only the most numerous, but often the most embarrassing of all the questions which are brought forward for adjudication;" and which describe this precipitation and its consequences as the cause, far more extensive in operation than all other causes, of the inadequacy of our civil tribunals.

33. We have no doubt that much of the pressure upon our tribunals is to be thus accounted for; and we fully recognize the importance of every measure which would serve as a remedy for the evil, by giving to parties the means of clearly understanding and satisfactorily establishing their respective rights. By the difficulties and delays, effects of the same cause, which still exist in the establishment of claims before your courts, persons deeming themselves to be injured, cannot, without extreme inconvenience, procure redress in a court of justice; whence wrong-doers are encouraged and oppression necessarily increases. Hence arise numerous complaints, and violation of rights far more extensive than the number of complaints indicate. Strongly impressed, as we have always been, with a conviction that your courts are not as practically open to suitors, and that expense, delay, and other impediments to justice, are not as much reduced as they might be, we have constantly urged you to adopt measures for improving the efficiency of your tribunals, and for rendering them more adequate to the wants and necessities of the people.

34. It appears, however, that at one time the Sudder Adawlut considered something more to be wanting than efficient tribunals of justice. In their register's Letter of the 12th June 1826, the judges of that court gave it as their opinion, "that no general change for the better could be expected in the condition of the cultivating classes, until some general, clear and positive rules should have been enacted, to guard them against the oppression and extortion to which, under the present system, they are necessarily exposed."

35. Upon the intimation of that opinion, you very properly desired the Sudder Adawlut to prepare and submit for your consideration such rules as to them might seem expedient, for more fully declaring and securing the rights and privileges of the Khood khoost and Cudeemee ryots, or other resident and hereditary cultivators and tenants of land, having a prescriptive right of occupancy.

36. Before any thing had been done by the Sudder Court, and despairing of their being able to suggest a satisfactory remedy, Mr. Harington was induced to submit to you the draft of a Regulation upon the subject, which you very properly referred to that court for their consideration and opinion.

37. The Sudder Adawlut were adverse to the provisions contained in the proposed Regulation; but we perceive that they were unwilling to pronounce a final opinion until they were in the possession of the sentiments of the territorial secretary and of the Board of Revenue.

38. Subsequently, however, two of the judges, Messrs. Leycester & Ross, recorded Minutes, in which they denied that the ryots could legally be considered to possess a claim to hold their lands at rates independent of the pleasure of the superior landholders.

39. It

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(5.) Letter to the *Bengal* Government, 1 Feb. 1832.

39. It is not our intention to enter at length upon a consideration of the grounds on which Messrs. Leycester & Ross rest their opinions, because we perceive nothing which has been urged by these judges to induce us to alter the opinions which were conveyed to you in our Revenue Despatches of the 15th January 1819, the 9th May 1821, and the 10th November 1824, and because we feel assured that the Minutes of those judges will have been carefully weighed, in connexion with the fuller information which you determined to procure before you ventured to legislate upon this important and interesting subject. We highly approve of your having determined to circulate the draft prepared by Mr. Harington for the opinions of the local revenue officers; and we trust that you will be able to frame a regulation which may enable the courts of justice to determine rates of assessment on principles consistent with the declared intention of the Regulations of 1793, and with the security of all parties interested in the possession and cultivation of the soil.

40. Mr. Harington's draft having now been before you five years, we have little reason to apprehend the adoption of any hasty or ill-considered measure; but previously to passing any regulation for defining, in the way proposed, the relative rights of zemindars and ryots, we desire that it may be submitted to us for our sanction.

41. We concur with you in thinking, that in the degree in which control over the natives exercising judicial authority can be extended by the multiplication of European officers, the fair administration of justice will be secured, and the happiness and interests of the great body of the inhabitants will be promoted; but the number of Europeans employed must be limited by the state of the finances; and with respect to their qualifications, to which you very justly attach the greatest importance, you are aware that the principle of selection on the first admission of individuals into the civil service has, for a long course of years, been attended to by us with the greatest anxiety, and that an immense expense is annually incurred for their education. But this subject is full of difficulties; and we apprehend that the good conduct and efficiency of public servants in India will generally be best secured by a severe superintendence on the part of the local governments, by making advancement the reward of merit, by steadily refusing promotion to all who are unfit, and by visiting delinquency in every case with appropriate punishment.

42. The desire evinced by your government for extending a knowledge of the Regulations, and of the principles on which justice is administered, by encouraging various publications, merits our fullest approbation; and we shall be gratified when circumstances will admit of your bettering the situations of the moonsiffs and police darogahs; an object acknowledged to be of the first importance for the improvement of your judicial administration.

We are your affectionate Friends,

London, 1st February 1832. } (signed) *R. Campbell.* *J. G. Ravenshaw, &c.*

(6.) Letter to the *Madras* Government, 12 Oct. 1831.

(6.)—COPY of a LETTER from the Court of Directors to the *Madras* Government, dated 12th October 1831.

1. We now proceed to reply to such parts of your Letters noticed in the margin, as relate particularly to the administration of criminal justice and the police.

Judicial Letter, 4th July 1828, Para. 54 to 57, 66, 67, 78, 83, 84, 97, 98.
Judicial Letter, 11th July 1828, Para. 78.
Secretary's Letter, 23d Sept. 1828.
Ditto - - 19th Dec. „
Ditto - - 12th June 1829.
Ditto - - 12th June „
Ditto - - 12th June „
Ditto - - 7th July „
Ditto - - 27th Oct. „
Ditto - - 27th Oct. „
Ditto - - 17th Nov. „
Ditto - - 29th Dec. „
Judicial Letter, 20th Nov. 1829, Para. 13.
Ditto - 26th Jan. 1830, Paras. 17, 28 to 30, 38, 39.
Ditto - 5th Feb. 1830, Paras. 5, 6
Secretary's Letter, 2d March 1830.
Ditto - - 5th March „
Ditto - - 6th Aug. „
Ditto - - 6th Aug. „
Ditto - - 6th Aug. „
Ditto - - 13th Aug. „
Ditto - - 13th Aug. „
Ditto - - 24th Aug. „
Ditto - - 27th Aug. „
Ditto - - 27th Aug. „
Ditto - - 31st Aug. „
Ditto - - 7th Sept. „
Ditto - - 24th Sept. „
Financial Letter 24th Sept. „ Para. 18 to 39.
Secretary's (Judicial) Letter, 15th Oct. 1830.
Ditto - - 29th Oct. 1830.
Judicial Letter - - 2d Nov. „
Secretary's Letter, 14th Jan. 1831.
Criminal Justice and Police.

2. Our remarks on the insufficiency and inaccuracy of the figured statements, referring to the administration of criminal justice and police under your Presidency, having been communicated by you to the Foujdarry Adawlut, the attention of that court was particularly directed to the subject; and, from the beginning of 1829, new forms of statements were adopted, and an improved system was established for procuring regular and well-digested reports. This change immediately produced a remarkable result. The periodical reports, which before had been satisfactory to your government, were now found to be of a very different character, and the returns for the second half of the year 1829 were much more unfavourable than those of the preceding half year. Heinous crimes appeared to be very prevalent, and many were reported to have been committed, the perpetrators of which were not discovered; the number of persons apprehended for the more serious crimes was very small in proportion to the supposed number of criminals; the persons apprehended for petty offences, (especially assaults) and the persons acquitted in proportion to those apprehended, were very numerous, and there were many false and malicious complaints.

3. The Statements for 1829, contrasted with those for the three preceding years, professing to show the total number of persons apprehended, acquitted and punished by the magistrates and the district police officers, will serve to explain how very insufficient those documents, before 1829, were to supply information of the business done by the magistracy and district police.

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	1826.	1827.	1828.	1829.
Number of persons apprehended by magistrates and district police officers	23,104	21,472	23,745	121,622
Acquitted by magistrates - - -	3,173	3,239	3,562	10,474
Ditto - by district police officers -	5,793	4,162	5,334	70,121
Punished by magistrates - - -	1,786	1,958	1,640	3,975
Ditto - by district police officers -	6,069	5,879	6,483	29,241

4. The corresponding documents, referring to the business before the criminal judges, the Courts of Circuit, and the Foujdarry Adawlut, do not exhibit such remarkable differences.

5. In reporting on the Statements for the first half of 1829, the Foujdarry Adawlut made the following remarks: "By the first of these it appears, that the number of serious crimes committed during the six months under review, was 3,482, in which 14,959 persons are supposed to have been concerned. The most prevalent offences are housebreaking, by night 1,051, by day 27; thefts of considerable amount, 849; robbery by gangs, 686; by a single person, 168; maiming and wounding, 151; arson, 123; murder, 104; murder and robbery, 23; receiving stolen goods, 100; culpable homicide, 24." And, after noticing some other offences, they say, "In more than one half of the whole, or in 1,814 cases, the offenders were altogether unknown; and in 1,856 cases, estimated to include 9,089 persons, no one party concerned had yet been apprehended. Of these, the cases of housebreaking by night were not fewer than 796, supposed to have been perpetrated by 1,671 persons; and 17 by day, by 24; 384 thefts by 1,033 persons; 410 gang robberies by 5,656 persons; and 105 robberies by single persons, supposed to have been perpetrated by 100 persons; 49 cases of arson by 161 persons; 33 cases of murder, including 115; and 15 of murder and robbery, 164 persons. The above certainly presents a very unfavourable view of the sufficiency of the existing police, especially as regards offences against property, the most injurious to individuals, and the perpetrators of which must be invariably encouraged, when the depredators on the public so generally escape detection."

6. The following extract from the Statements, show the number of some of the principal crimes ascertained to have been committed, and the number of cases in which not any of the offenders had been discovered, in the two half-years of 1829; also the number of persons charged with those crimes, who were convicted and punished by the several tribunals:—

	Crimes ascertained.			Cases in which none of the Offenders have been discovered.			Number of Persons sentenced and punished in the whole Year,			
	First Half Year.	Second Half Year.	Total.	First Half Year.	Second Half Year.	Total.	By Criminal Judge.	By Court of Circuit.	By Foujdarry Adawlut.	Total.
Murder - - -	104	126	230	30	36	66	- -	10	42	52
Murder and robbery -	23	24	47	14	7	21	- -	- -	4	4
Gang robbery - -	686	824	1,510	384	459	843	32	192	23	247
Robbery by single persons	168	204	372	105	143	248	38	3	1	42
Housebreaking by night -	1,051	1,342	2,393	804	994	1,798	325	95	7	427
Arson - - - -	123	115	238	49	46	95	1	5	- -	6
Maiming and wounding -	151	174	325	17	15	32	164	23	4	291

7. This indicates a great prevalence of some of the most atrocious crimes, especially of gang robbery; while the cases in which none of the offenders were discovered are very numerous, and the convictions are very few in proportion to the persons apprehended.

8. The information afforded by these Statements, however, can scarcely be considered conclusive as to the fact of crimes having increased, for however correct the accounts for 1829 may be supposed to be, those for former years are certainly otherwise, and the Statement of crimes ascertained to have been committed in the last nine half-years, which was furnished by the Foujdarry Adawlut, with their Report for the last half of 1828, is evidently too comprehensive and too vague to be of any use. But if the forms which have now been adopted are steadily continued, and proper pains are taken to have the returns prepared in every instance as correctly as possible for several years, the increase or decrease of crime in the Madras territory will be much better known than it has hitherto been.

9. The frequency of gang robbery in several of the districts is much noticed by the circuit judges, and from their description the crime seems to bear a close resemblance to that of decoity in Bengal: 686 of these robberies were ascertained to have been committed in the first half of 1829, and 824 in the second half. In these are not included robberies with murder, of which, in the two half-years there were 47; and robberies by single persons, of which there were 372.

10. We observe that in the district of Canara, the number of cases of gang robbery ascertained to have been committed, compared with the number brought to trial before the Court of Circuit, in nine successive half-years, ending with 1828, were as follows:—

GANG ROBBERY.

Ascertained.	Brought to Trial.
20	1
26	3
29	1
27	1
15	9
27	1
23	1
21	–
32	3
220	20

11. In Malabar, in the same period, there were six commitments for gang robbery, while the number of cases ascertained (included under the heads highway robbery and robbery without murder) amounted to 55. We have referred to these two Zillahs, not because we understand gang robbery to be more frequent there than in other districts, but because the Reports of the Western Division are the only ones which supply any information on the subject. We conclude that in reference to this point, the administration in other parts of the country does not materially differ from that in Malabar and Canara.

12. It is obvious, that unless offenders are brought to trial with much more certainty than is here indicated, the administration of the criminal law will never be effective to suppress crimes.

13. We know no reason why gang robbery should not be checked as decidedly under your Presidency as it was in Bengal. The number of decoities ascertained to have been committed in the Lower Provinces of Bengal in 1828 was 167; 25 years ago the yearly average was near 1,500. We trust you will use your best exertions to put down this dreadful scourge, the excessive prevalence of which in your districts is very discreditable to the administration.

14. In the districts under your Presidency, in the year 1829, 121,622 persons were, as appears by the Returns, apprehended by the magistracy and district police; of these, 85,172 were acquitted, and 35,654 punished.

15. Of this number, 1,905 were punished by the criminal judges; 427 by the Courts of Circuit; and 106 by the Foujdarry Adawlut.

16. Of those punished by the Courts of Circuit, 162 were sentenced to imprisonment for a term above seven years, and 264 to imprisonment for shorter periods.

17. Of those punished by the Foujdarry Adawlut, 16 were sentenced to death; 16 to transportation or imprisonment for life; 16 to imprisonment for more than seven years; and 58 to imprisonment for not more than seven years.

18. We have extracted from the documents recorded on your Consultations, the following numbers of persons whose cases were referred to the courts, and the numbers acquitted and punished for several years past:—

	CRIMINAL JUDGES.				COURTS of CIRCUIT.				FOUJDARRY ADAWLUT.			
	1819 to 1821.	1822 to 1824.	1825 to 1827.	1828 and 1829.	1819 to 1821.	1822 to 1824.	1825 to 1827.	1828 and 1829.	1819 to 1821.	1822 to 1824.	1825 to 1827.	1828 and 1829.
Referred - -	26,019	34,878	21,820	14,391	6,391	8,220	4,825	3,750	814	2,339	1,433	882
Acquitted - -	14,973	15,865	12,437	10,467	2,804	2,771	3,059	1,746	288	522	831	324
Punished - -	7,074	8,567	4,814	3,165	3,207	1,518	1,201	952	477	1,120	1,385	217

The Yearly Averages of the above numbers would be as follows:—

	CRIMINAL JUDGES.				COURTS of CIRCUIT.				FOUJDARRY ADAWLUT.			
	1st Period.	2d Period.	3d Period.	4th Period.	1st Period.	2d Period.	3d Period.	4th Period.	1st Period.	2d Period.	3d Period.	4th Period.
Referred - -	8,673	11,626	7,273	7,195	2,130	2,740	1,618	1,875	271	779	477	441
Acquitted - -	4,991	5,288	4,145	5,233	934	923	1,019	873	96	174	277	162
Punished - -	2,358	2,855	1,604	1,582	1,069	506	400	476	159	373	461	108

19. The

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19. The number of persons sentenced to death, transportation or imprisonment by the Foujdarry Adawlut, are stated to have been as follows:—

—	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.	1828.	1829.
Death - -	51	47	94	58	66	40	46	21	12	26	16
Transportation	45	14	41	82	193	139	115	29	14	31	14
Imprisonment	84	37	62	94	105	340	407	178	63	54	76

20. These numbers, in periods corresponding to those given above, and their yearly averages, would be as follows:—

SENTENCES.	1819 to 1821.	1822 to 1824.	1825 to 1827.	1828 and 1829.	YEARLY AVERAGES. 1st Period.	2d Period.	3d Period.	4th Period.
Death - -	192	124	79	42	64	41 1/2	26 1/3	21
Transportation -	100	414	158	45	33 1/3	138	52 2/3	22 1/2
Imprisonment -	183	530	648	130	61	176 2/3	216	65

21. The capital sentences passed by the Foujdarry Adawlut in several preceding years, are stated to have been as follows:—

1803.	1804.	1805.	1806.	1807.	1808.	1809.	1810.	1811.	1812.	1813.	1814.	1815.	1816.	1817.	1818.
77	141	175	92	72	65	47	77	45	29	49	70	39	24	38	14

22. It is satisfactory to observe so great a decrease in the number of capital sentences. This has occurred in a remarkable degree during the last four years, and in the same period the sentences to transportation and imprisonment passed by the Foujdarry Adawlut have much diminished. In former years the fluctuation on the sentences of that Court was very considerable.

23. We desire you will send copies of the foregoing tables to the Foujdarry Adawlut, directing them to report on their general accuracy or inaccuracy, to correct any errors which they may contain, and to give such explanations as they may be able to afford, of the causes of any considerable differences in corresponding parts of the tables in different years. The Foujdarry Adawlut will also separate, if the records of their office will enable them to do so, their sentences of imprisonment into classes; showing the number of persons sentenced to be imprisoned for terms not above seven years, above seven years, not above fourteen, and above fourteen, not being imprisonment for life. This has been done in the Statements for 1829, and we wish to have a corresponding account for former years. We should be glad also to have a similar table for the sentences of the courts of circuit, if it can be prepared without much trouble.

24. According to the Statements, the district police officers had before them, in 1829, 106,682 persons charged with crimes and misdemeanors and petty offences. In the same year they acquitted 70,121, sent 6,601 to the criminal courts, and punished 29,241. Of those punished, 21,533 were fined, 686 put in the stocks, 3,828 confined, and 3,193 flogged. Of those sent to the criminal courts, above one-third were released.

25. The persons annually subjected to the authority of these officers, including prosecutors and witnesses, as well as parties accused, must be exceedingly numerous. The Statements cannot give complete information on this point, far less can they show the number of complaints which have been peremptorily rejected or dismissed without inquiry, or the number of persons punished unjustly, or harassed by being sent unnecessarily to the criminal courts. In one district (Masulipatam), the population of which a very few years ago was ascertained to be less than 530,000, there were, in the year 1829, 9,977 persons charged with petty offences before the district police officers. Allowing for the persons in attendance as prosecutors and witnesses in such cases, it is clear that a very large proportion of the effective inhabitants of the country (deducting for those who from sex, age infirmity, or other causes, were unable to attend,) must have been before them in the course of one year. Of the accused, no less than 8,723, which is almost nine-tenths of the whole, were acquitted. There is reason to suspect that the business before the district police officers is more extensive than the official returns indicate. For instance in Cuddapah, the number of persons acquitted by them on charges of petty offences amounted in 1829 to 4,203, and the number punished to 1,554; while in the adjoining district of Bellary, the acquittals were 101, and the punishments 1,127. In the former Zillah, on similar charges before the magistrate, the acquittals were 1,176, and the punishments 248. In the latter, the acquittals before the magistrate were 34, and the punishments 58. It seems difficult to account for these differences, but on the supposition that the business in Bellary is not fully reported.

26. It

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26. It is of great importance that the mode in which these officers exercise their power should be known, and that the people should be protected against its abuse, for the authority vested in them is great; they have constant temptation and opportunity to misuse it, without much risk of punishment or exposure; and frequent representations against them have been made by the circuit judges.

27. Under the Madras Regulations, the police officers are also the revenue officers, and no orders can be given to any police officer but by the magistrate, who is also the collector, his revenue superior. The judicial officers are not allowed to interfere with them, nor even with the magistrate, except in a very limited number of cases.

28. The commission of a crime having come officially to the knowledge of the native head of police, he sends the accused, with the witnesses and the papers of the case, to the criminal judge, who certifies that the persons and the documents have been received; and the Regulation after prescribing this course adds, "And no other communication shall be necessary." By the same Regulation it is provided, that "no order shall be issued to any police officer, excepting by the magistrate or his assistants." The inconveniences resulting from these restrictions have been very inadequately guarded against by a subsequent enactment, under which the criminal judge is authorised to call for documents which a police officer ought to have transmitted; and whenever there may not be a magistrate or assistant magistrate at the Zillah station, it is competent to the criminal judge to do all acts necessary for preserving the public peace, or securing public offenders, which the magistrate might do in such case. The criminal judge cannot correct the errors of police officers, nor direct their inquiries. He is to acquit or commit the accused, or to punish him according to the case. Although it must often happen that further investigation is required, or the presence of other parties than those who have been forwarded by the police officers, the criminal judge has no alternative; the Regulation which declares, that "no other communication shall be necessary," puts an end to the proceedings. For oppressive or irregular acts, a magistrate may censure police officers, or bring them to punishment; but, with the exception of a small number of cases, he has no opportunity of knowing any thing of the proceedings; while the criminal judge, before whom their proceedings are necessarily brought, has no jurisdiction; he cannot receive a complaint against the police officer, nor even ask an explanation of his conduct, however absurd or mischievous it may appear.

29. The people have no means of complaining criminally against the police officers, but by applying to the magistrate. If he does not hear them, there is no power to compel him; none to ascertain whether he attends to their complaints.

30. In the proceedings of the Foujdarry Adawlut, dated 30th June 1830, the sentiments of the court on this subject are expressed in the following strong terms:—"It is of the highest importance that some efficient method be devised for checking the irregularities and abuses which seem to prevail almost universally among the lower agents of the police, and too generally, it is to be feared, among the higher. Experience has shown that the instructions issued by the judges of circuit and court of Foujdarry Adawlut, have not produced material amendment in the conduct of the police officers; a reprimand, or a trifling fine, is, with few exceptions, the chief penalty inflicted on a police officer whose irregularities are brought to the notice of the magistrate under the orders of the superior tribunals; and Regulation III. of 1819, which was intended to provide more effectually for the punishment of oppression or other abuse of authority on the part of the police officers, has remained almost, if not altogether, a dead letter. The reason is pretty clear. An action, civil or criminal, by the party aggrieved, seems hopeless, so long as the police officer retains his influence, which would always be exerted, and too often successfully, to keep back evidence to establish his delinquency; and the consequence is, that for the most flagrant violations of duty, police officers practically enjoy a degree of impunity which it never could be the intention of Government to extend to them."—"There can hardly be a doubt" (they add) "that the real or supposed influence of the police officer, with his immediate superior, operates with other causes to prevent witnesses from coming forward in true cases; and thus at the outset a serious obstacle is opposed to the complete and satisfactory investigation of them by the magistrate."

31. The Foujdarry Adawlut further say, "Instances are still frequent, and several have recently come under the observation of the court, in which prisoners are detained in the custody of the inferior agents of the police, or of the district police officer, for weeks and even months, before they are sent up to the criminal court; and the reasons most commonly assigned for this irregularity are either false upon the face of them, or such as have been repeatedly declared inadmissible. It is surely not too much to infer, that the unwarrantable detention of the prisoners is the least of the irregularities committed in these cases; and that on all, or nearly all of them, the police officers have been guilty of acts which ought to subject them to a much more severe punishment than the magistrate is authorised to inflict. But frequent as these instances are, it hardly ever happens that a police officer of the higher classes is brought before the criminal court; and the unavoidable conclusion seems to be, that there is a failure of justice in these cases, or that the delinquency of the police officers is inadequately punished."

32. Of the authority of the Courts of Circuit in such cases, the Foujdarry Adawlut say, "At present their authority is limited to the mere formal act of bringing to the notice of

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the magistrate the misconduct of his subordinate officers; and they have no control over his proceedings upon the receipt of this communication, which is seldom followed up by effectual measures for preventing the recurrence of the same irregularities, or for bringing to punishment the individuals guilty of them. The communication, therefore, is hardly ever attended with any other effect than to bring the superior tribunals into contempt, and to confirm the police officers in the impression that they risk little by the neglect or violation of the rules prescribed for their guidance."

33. The insufficiency of the authority of the circuit judges over the proceedings of the magistrates, and the oppression to which the people may in consequence be subject, are occasionally noticed in the circuit reports; in one of those reports now before us we observe the following case. A petition was presented to a judge of circuit, alleging that a magistrate had kept a person unjustly confined for a considerable time, without any investigation into the charge against him. The judge called on the magistrate for explanation; and it appeared that the complainants had been confined nearly two months, and that no inquiry had been made into their cases. The circuit judge (although not satisfied that he had any authority to interfere) said, that the explanation was not satisfactory; he directed that the cases should be immediately disposed of, and that a further return should be made in fifteen days. Next day it was certified to the judge that the prisoners had been released. The judge on this occasion complained of the insufficiency of the law; and the Foujdarry Adawlut, after declaring their entire concurrence with the circuit judge, as to what the law ought to be, stated that their sentiments on the subject had on more occasions than one been submitted to Government. In reply, you merely remarked, that the subject had been before discussed in the proceedings of Government.

34. The Foujdarry Adawlut, referring to a proposal of Mr. Harris, the judge of circuit, that the heads of villages, tehsildars, and collectors, should be relieved from the charge of police and magistracy, remarked that the transfer of the police and of the magistracy from the judicial to the revenue department, having been carried into effect under the special orders of the authorities in England, it was to be presumed that no alterations in that arrangement could be made without our sanction; and they referred to their opinion on the general effect of the arrangement which they had communicated to you in their Resolutions of the 25th April 1829. You intimated to that court your hope, that if the partial reforms suggested by the Finance Committee in Bengal were adopted, they would be attended with beneficial effects; and that in other respects it was considered desirable to give the existing system a further trial.

35. Although we are not satisfied of the necessity or the propriety of such extensive changes as those proposed by Mr. Harris, and must therefore concur with you as to the expediency of giving the existing system a further trial, we cannot shut our eyes to those parts of the system which obviously require amendment. It appears to us to be quite indispensable that a sufficient check should be established on the proceedings of the native police officers and the magistrates; that avoidable obstacles to the detection, apprehension and conviction of offenders should be removed, and that facilities of access to criminal justice should be given to the people; but these ends seem to be unattainable as long as the police is so exempted from the cognizance of the criminal courts. The sole object of this exemption has been to prevent collision with the revenue officers; but, from the consequences adverted to, this part of the arrangement appears to require revision and amendment. It is necessary, therefore, that the police should be rendered effectively amenable to the courts; and for this purpose we direct that the magistrates and the native police officers be (in all cases connected with the department) subject to the orders of the criminal judges and of the courts of circuit.

36. We have not been inattentive to the remark of the Foujdarry Adawlut, who have observed that any direct authoritative interference of the superior courts with the establishments under the immediate superintendence of the magistrates, might be opposed on the ground, that however it might serve to check the irregularities of the police, it would be liable, unless judiciously used, to weaken the efficiency of the revenue department, and throw it into confusion. It is certainly not our purpose that revenue officers, in their capacity of police officers, should be armed with power to apply or to withhold the penal law at their pleasure, or to leave parties aggrieved by their acts without the means of obtaining redress against them in the criminal courts. However anxious we may be to prevent collision of authority, it is not to be supposed that measures which are represented as tending to the increase of crimes, and to the protection of criminals, would be supported by us for the mere purpose of maintaining the arrangements of the revenue department. Those arrangements are always open to discussion in their proper place; and we trust that if the powers of control which we have directed to be invested in the superior courts, are judiciously defined and discreetly used, (and it will be your business to see they are) the fear of throwing the revenue department into confusion, by subjecting the police to the authority of the courts, will be found utterly groundless; but even if it were otherwise, we should regard it merely as an argument of the imperfection of those arrangements. In no case could we conclude that it was expedient to uphold them by means inconsistent with justice, and generally oppressive to the people.

37. The prevalence of perjury has been much complained of by some of the circuit judges. We doubt the propriety of attempting to remedy this evil by making the penal law more severe. Convictions of persons charged with perjury would, we should fear, become

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become less frequent, and the repugnance to attend our courts as witnesses, which is now too generally felt by respectable people, would be greater than ever. We are more disposed to rely on the good effects of the careful investigation by the judges of the cases before them. Conspiracies and false testimony would be less frequent if men saw that they were less frequently successful, and that those who engaged in them were likely to be exposed and punished. We fear perjury will not materially diminish in your courts till the people have acquired a well-grounded confidence in the correctness of the judicial proceedings. With this view we desire you will instruct the superior courts to take frequent opportunities of examining the proceedings of the inferior, whenever they shall have reason to suspect that the evidence has not been well sifted and duly estimated; and that they will communicate to the proper officer such remarks as the cases may call for.

38. We desire you will instruct the Foujdarry Adawlut to require of the circuit judges a strict account of the grounds on which they postpone trials at the sessions. The long and repeated journeys to the Zillah stations to which prosecutors and witnesses are subjected are so exceedingly vexatious, that their reluctance to attend cannot excite any surprise. On one occasion the witnesses had already travelled at least a thousand miles, and they had still another journey to perform. No doubt this evil is in part to be ascribed to defects in the previous proceedings, and to the distance of the Zillah station from the residence of the parties; but delays which are owing to the Courts of Circuit and to the Foujdarry Adawlut, ought to be carefully attended to, and reduced as far as circumstances will permit.

39. There are also delays after the conclusion of the trial, which ought, at all events, to be prevented. The records of trial referred to the Foujdarry Adawlut are sometimes not forwarded by the circuit judges for a very long time. We have observed occasions in which twelve to twenty months elapsed before they reached the Foujdarry Adawlut; and amongst several instances of great delay in the final disposal of trials referred to the Foujdarry Adawlut, one occurs in which ten persons, who were tried by the Court of Circuit at Chicacole in May 1824, were not finally discharged by the Foujdarry Adawlut till April 1827. We are told that the omission to bring on their trials was occasioned by some oversight, and that nothing of the sort can happen again. We think it desirable that the periodical returns made by the Foujdarry Adawlut to Government should show the dates on which the trials were brought on before the Courts of Circuit; the dates on which the records were received; and the dates of the final proceedings of the Foujdarry Adawlut on the several cases, in any instance where the delay exceeds a certain specified time—say two months.

40. A practice, arising of course in a great degree from the doubts of judges as to the veracity of witnesses, appears to be gaining ground with your circuit judges, and even with the Foujdarry Adawlut, of ordering, in many cases, that persons acquitted on charges of specific crimes shall be detained on requisition of security on account of some suspicion of their guilt. We think this very objectionable, and we desire you will direct the attention of the Foujdarry Adawlut to the subject.

41. It appears from the Circuit Report of the 1st September 1830 for the Northern Division, that it is very common for powerful persons in the Vizagapatam district to send for a ryot who may have fallen into arrears, or if any property has been lost, for any one who may have incurred their suspicions, and to put him in confinement. When these persons are released, they frequently complain, that while in confinement they were starved, maltreated, and put to the torture. In about a year and a half, fifty-three complaints of false imprisonment had been preferred in that district; many of them included charges of violence having been used and property forcibly taken; and others stated that the complainants were kept in confinement until they consented to sign some document or receipt. It is stated by the circuit judge, that, in the former case, the magistrate is competent to investigate into the violence, while, in the latter, he is obliged to reject the complaint. The judge also refers to an order of the Foujdarry Adawlut passed in 1819, by which it appears that that court declared false imprisonment to be a civil injury, of which a magistrate could not take cognizance, his duty in a case of that nature being to obtain the release of a party so confined, leaving him to seek redress in the civil court. In submitting the circuit judges' Report to Government, the Foujdarry Adawlut merely intimated that their proceedings, as referred to, were laid before Government on the day they were passed.

42. The only order passed on those proceedings by the Government is entered on your Consultation of the 3d March 1820, in these words, "Ordered to be recorded;" and the only notice you have taken of the circuit judges' Report now referred to, and of the proceedings of the Foujdarry Adawlut relating to that Report, is, that these papers were not considered to call for any observation from the Government.

43. We know no reason why men who commit such offences should be exempt from the punishment to which other criminals are liable, or why those who have been oppressed so cruelly should be denied that protection which is granted to other sufferers in cases of much less importance. Crimes so encouraged must inevitably increase. We cannot but express our astonishment at your supineness and indifference on this important subject; and we now direct that this defect in your Regulations be corrected without further delay.

44. It has been too often the practice of our Indian governments to make, without our previous sanction, fundamental alterations in the system for administering justice to the

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natives. When such alterations have been carried into effect, things cannot be restored to their former state without great inconvenience. Hence, if we should disapprove the new measures, we are virtually deprived of the power of exercising our judgment on them for any practical purpose. Of this nature are some of the changes which you have lately taken upon yourselves to introduce, without any previous reference to us.

45. The chief alterations which you have resolved to carry into effect in the department of criminal justice, are these:—

1st. To reduce the number of circuit judges from twelve to seven.

2d. To give the circuit judges power to direct the dismissal of native officers of police, for misconduct in that department.

3d. To abolish the Mahomedan law in the Courts of Circuit.

4th. To extend the full powers of committal and punishment now vested in the criminal courts, to the native judge in Canara, to the two new native judges who are intended to be appointed in Southern Arcot and Guntoor, and to the Sudder Aumeens.

5th. To reduce one judge of the Foujdarry and Sudder Adawlut.

46. Some alterations also are to be made in the powers of the judges of circuit and of the Foujdarry Adawlut.

47. Connected with these arrangements, are various others relating to civil justice, the whole of which are described generally in the proceedings of the Sudder and Foujdarry Adawlut, dated 19th October 1830, but the details are not yet fully before us.

48. We observe, that in order to allow of a reduction in the number of circuit judges, much of the business which has hitherto been done by the Court collectively, is to be assigned to single judges, and that they are to be relieved from a considerable part of the civil business.

49. It should, we think, be competent to a circuit judge to recommend to the magistrate the dismissal of a native police officer, on the ground of any particular misconduct or neglect which may have been established against him in the Circuit Court; but the general question of fitness or unfitness of the police officer for his place, should be determined by the magistrate, with whom alone the responsibility should rest. It should be by a judicial act only, under a general power to revise the magistrate's proceedings, and to reverse his orders, that the circuit judge should be vested with authority to direct the dismissal of an officer of his establishment; if circuit judges have not authority to direct the dismissal of native officers on the establishment of the criminal judges, and we are not aware that they have, except by a judicial sentence, there seems no reason for giving them that power specifically over the native police officers.

50. The abolition of the Mahomedan law in the Courts of Circuit is the most important of the intended alterations. We are not informed of the mode in which this change in the administration of justice in your principal criminal courts is to be made, but we think it necessary to apprise you, that in our opinion, the assistance of the law officer in the Court of Circuit as an assessor is a very important security for justice, which without some equivalent cannot be dispensed with; and we are not aware that any plan better suited to the ends of justice, more effective, and at the same time more economical, than that by which the law officers were established, has been devised. We direct that at all events the proceedings of the Court of Circuit be not held under the unchecked authority of an English judge, but that a native officer of character and ability, competent to the business and skilled in judicial proceedings, be permanently appointed as a component part of the court, with powers to assist with his opinion and advice at every stage of the trial; that the English judge be not authorized to pass sentence without his concurrence; and that in the event of his differing from the native officer, he be required, as at present, to forward a copy of the proceedings to the Foujdarry Adawlut, and wait the sentence of that court.

51. For the proper exercise of the powers entrusted to native judges and Sudder Aumeens, the best practical securities will, we trust, be established.

52. The following remarks of the Sudder Adawlut, in reference to the plans of the Finance Committee, and especially to the reduction of a judge of the Sudder court, to the abolition of Zillah courts, and to the increased powers in the administration of justice, which are to be given to natives, have particularly attracted our attention. "The reduction of the former Zillah into auxiliary and native courts, which had already partially been carried into effect, is a mere change of name in the local agency, and a diminution of expenditure for the administration of justice. It can neither reduce the number of crimes, nor of lawsuits in the provinces, and the same quantity of business remains to be done by an agency less competent and more corrupt than that formerly employed. Instead of relieving the superintending authority at the Presidency, as seems to have been imagined by the Finance Committee in Bengal, this alteration in the local agency from the increased errors of its greater inexperience, and its greater liability to local influence, partiality and abuse, will considerably augment the labours of this Court. These changes are now proposed to be carried still further, and native agency is about to be substituted for much of the most important remaining European authority, hitherto devoted for the last thirty years to the local administration of justice." The Sudder Adawlut have justly observed, that in

these

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these circumstances, it is evidently of the highest importance to strengthen the efficiency of the superintending court; and you have at their suggestion provided for an extension of authority in single judges of the Sudder and Foujdarry Adawlut, corresponding with that which is established in the Courts in Bengal. This arrangement we entirely approve. We trust that the Sudder and Foujdarry Adawlut will vigilantly watch the proceedings of the auxiliary and native courts, and that we may receive from you frequent reports respecting them, for we shall be anxious to learn how far experience will justify the confidence which has been reposed in them.

53. We entirely approve your having adopted the suggestion of the Foujdarry Adawlut, that the magistrates and their subordinates should be required to furnish periodical reports of the state of the police in their respective districts. We desire that similar reports may be furnished by the principal native police officers under the magistrates, and that copies of these documents may be forwarded regularly to us.

We are your loving Friends,

London, 12th October 1831. (signed) *R. Campbell*, *J. G. Ravenshaw*, &c.

(7.)—COPY of a LETTER from the Court of Directors, to the *Madras* Government, dated the 21st December 1831.

(7.) Letter to the *Madras* Government, 21 Dec. 1831.

1. We now proceed to reply to the paragraphs of your Letters, noticed in the margin, which refer to the Reports on Civil Justice in the years 1827 and 1828, and the first half of 1829.

Civil Justice.
Para. 15, of Letter dated 30th Nov. 1829.
Para. 27, of Letter dated 26th Jan. 1830.
Para. 16, of Letter dated 25th June 1830.
Secretary's Letter, 12th June 1829.

2. The number of original suits instituted in the several judicatories under the Madras Presidency in the years 1827 and 1828, and in the first half of 1829, were as follows:—

Before the	1827.	1828.	1st Half of 1829.
Provincial Courts	28	29	14
Zillah Judges	7,291	6,564	2,698
District Moonsiffs	49,572	62,516	32,334
Village - ditto	5,491	3,959	1,344
TOTAL	62,382	73,068	36,390

3. The Suits decided by the

	1827.	1828.	1st Half of 1829.
Provincial Courts	48	27	13
Zillah Judges	692	1,011	421
Registers	961	283	135
Sudder Aumeens	5,454	6,047	2,716
District Moonsiffs	49,963	55,451	29,449
Village - ditto	5,095	4,108	1,369
Punchayets	57	57	16
TOTAL	62,270	66,984	34,119

4. The numbers depending at the end of that period, were,—

Before	
Provincial Courts	66
Zillah Judges	207
Registers	113
Sudder Aumeens	1,661
District Moonsiffs	23,874
Village - ditto	3,224
Punchayets	50

5. It

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5. It appears from this statement, that almost the whole of the original suits were decided by natives, about one forty-fifth part only having been disposed of by Europeans; and that the average delay in the courts, according to the rate of decision in this period, was as follows:—

	Average Delay.
Provincial Courts	near 2 years.
Zillah Judges	near 1 ½ year.
Registers	not 3 months.
Sudder Aumeens	more than 3 months.
District Moonsiffs	not 6 months.
Village Moonsiffs	above 9 months.
Punchayets	near 2 years.

6. The appeals instituted in the same period, were as follows:—

	1827.	1828.	1st Half of 1829.
From the decisions of the Provincial Courts	15	16	9
— Zillah Judges	58	110	42
— Registers	149	106	16
— Sudder Aumeens	697	706	351
— District Moonsiffs	1,461	1,354	612
TOTAL	2,380	2,292	1,030

7. No appeals are allowed from the courts of the village Moonsiffs and Punchayets.

8. The numbers decided were,—

	1827.	1828.	1st Half of 1829.
In appeal from the decisions of—			
Provincial Courts	10	11	5
Zillah Judges	121	110	48
Registers	165	123	45
Sudder Aumeens	577	395	282
District Moonsiffs	1,214	1,451	623
TOTAL	2,087	2,090	1,003

9. And the numbers depending at the end of the first half of 1829 were,—

Appeals from the decisions of the—

Provincial Courts	34
Zillah Judges	148
Registers	210
Sudder Aumeens	1,332
District Moonsiffs	765

10. Of the 5,180 appeals decided in this period, 3,288 were from the decisions of District Moonsiffs; and of these 2,502 were determined by the Sudder Aumeens. Almost half the decisions on appeals therefore were passed by natives.

11. According to the above rates of decision, the delay in disposing of the appeals depending in 1829, would be as follows:—

12. In appeals from the decisions of the—

Provincial Courts	more than 3 years.
Zillah Judges	more than 1 ½ year.
Registers	about 2 ½ years.
Sudder Aumeens	more than 2 ½ years.
District Moonsiffs	about 7 months.

13. Comparing the number of appeals with the number of original decisions, it appears that about half the decisions of the provincial court were appealed from; about one-tenth of the decisions of the Zillah judges; one-fifth of those of the registers; one-eighth of those of the Sudder Aumeens; and one-fortieth of those of the District Moonsiffs.

14. These

14. These differences in the number of appeals, as compared with the number of decisions in the original suits, do not indicate corresponding differences in the quality of the judicature in the lower courts; they depend chiefly on the nature of the suits, and on the different degrees of facility with which appeals are admitted. The suits decided in the provincial courts always involve property to a large amount, and the parties can generally afford to pay the expense of an appeal. The appeals from the decisions of the Zillah judges, compared with those from the decisions of the registers and Sudder Aumeens, are proportionally few; because the parties are subjected to much inconvenience and expense, owing to the provincial court being at too great a distance from the suitors, and the costs being considerable. The comparatively small number of appeals from the District Moonsiffs, is no doubt partly owing to the poverty of the suitors in cases involving property of small amount, but principally to the exclusion from appeal of all suits for personal property decided by them, in which the amount does not exceed 20 rupees value. As the average value of suits disposed of by the District Moonsiffs is less than 40 rupees, the number of unappealable suits must be a large part of the whole; the exact proportion is not known. It is to be observed also, that in the courts of the District Moonsiffs more than one-third of the cases are settled by razeenamah; of course none of these would be appealed. Excluding razeenamahs, about one twenty-fifth of the decisions would be appealed from.

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15. The Statements show, that of 1,254 decisions of the Sudder Aumeens disposed of in appeal, 381 were reversed; and that of 3,294 decisions of the District Moonsiffs disposed of in appeal, 1,245 were reversed; that is to say, about 30 per cent. of the former, and 37 or 38 per cent. of the latter, were reversed. There is no reason, therefore, to conclude from the smaller proportion of appeals from the decisions of the District Moonsiffs, that their judgments are better than those of the Sudder Aumeens.

16. Although the state of the business in regard to the promptness with which suits are brought to a decision in your courts is generally satisfactory, there are some exceptions; and your attention is necessary to prevent accumulation of suits in the higher courts, especially in regard to appeals. It is obvious, that a large proportion of original suits instituted in the Zillah courts, might be referred to the District Moonsiffs. Many of these, however, are retained on the file of the judges, or referred to the register or Sudder Aumeens. But suits once placed on the file of any particular judicatory, remain there, of course, till they are decided; and if while this mode of distributing suits continues, the judges, or registers or Sudder Aumeens have other business, which prevents them from attending to their civil courts, arrears must accumulate. The assigning of small causes to the register and Sudder Aumeen, occasions a still further accumulation in the higher courts; for any cause, however small the amount, which may be appealed from the decision of a register, must be tried in appeal by the Zillah judge, and any cause appealed from the Sudder Aumeen must be tried by the judge or the register; whereas if they had been assigned to a District Moonsiff in the first instance, appeals from the decisions might have been heard by a Sudder Aumeen.

17. In the Canara Court, where the accumulation of arrears has been so great as to attract the special attention of the Sudder Adawlut and Government, nearly three-fourths of the business appears to have accumulated in this manner. The inconvenience might have been obviated, if the state of the files had been properly regulated. If this matter is carefully attended to, the present system will afford the means of disposing of a very large additional number of civil suits; but if it be not attended to, arrears will inevitably accumulate in other districts, as they have done in Canara.

18. The average value of the suits instituted in the courts of the Zillah judges, and the value of the suits decided by those judges, and by the registers, the Sudder Aumeens, and the District Moonsiffs, contrasted with the value of suits which come within the jurisdiction of those officers, will show how unnecessary it is to keep the files of the superior judicatories overloaded, and how easy it would be to prevent arrears, merely by a careful distribution of the business, without any additional expense to the Government or to the suitors, and with manifest advantage to all parties.

19. In the five half-years ending with the first half of 1829, there were instituted, in the courts of the Zillah judges, 16,533 suits, in which the value of the property litigated was Rs 26,52,868. In the same period 1,233 suits, in which the value litigated was Rs 3,50,198, were referred to the register; 14,555, in which the value was Rs 13,95,180, were referred to the Sudder Aumeens; and 384 suits, in which the value was Rs 23,744, were referred to the District Moonsiffs. It will be seen that the average value of the suits instituted in the Zillah courts was about Rs 160; and that the average of those referred to the registers, Sudder Aumeens and District Moonsiffs were Rs 284, Rs 92, and Rs 62 respectively. Of the suits instituted, therefore, there must have been but a very small number which were not within the jurisdiction of the District Moonsiffs. Your constant attention will be necessary to secure to the people that prompt and unexpensive decision of their suits, which cannot be effected if the causes are allowed to accumulate, and to be drawn into the higher courts.

20. Adverting to the large number of cases settled by razeenamah before the District Moonsiffs, we observe, with regret, that the judges of the Sudder Adawlut have seen ground to apprehend that many of them are mere fictitious suits, got up by the Moonsiffs for the fraudulent purpose of obtaining from Government the fee of half an anna in the rupee, to which they are entitled under Regulation II. of 1828, in all suits instituted in their

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their courts, and settled by razeenamah. In the proceedings of the Sudder Adawlut, dated 19th October 1830, we find the following passage: "As an example, the court take the following from the returns of the Vailpund Moonsiff, in Cuddapah, for the second quarter of this year:—

	Number of Suits.	Value of Property claimed.	Fees.
" Dismissed - - - - - -	140	Rs 1,221	No Fees.
" Decreed - - - - - -	73	„ 2,582	Rs 161
" Razeenamahs - - - - -	248	„ 6,353	„ 395
" Total Fees - - - Rs			556
" Per Mensem - - -			185

"Here is a Moonsiff who dismisses double the number of the suits he decrees; but the property claimed under the suits dismissed is not half the value of that claimed under the suits decreed; notwithstanding they are doubly numerous, he receives Rs 70 pay, but Rs 185 fees, making a total of Rs 255 per mensem; and passes only 73 decrees, but settles nearly four times that number of suits, or 248, by razeenamah: his fees from decrees are only Rs 161; from razeenamahs no less than 395. Now to insure the receipt of this last sum, of which nearly half, or Rs 197, comes out of the public treasury, it is only necessary to advance the other half to enter a fictitious plaint and razeenamah, and, at the close of the month, the sum returns doubled into the hands of the District Moonsiff." The circumstances stated certainly require explanation; and we trust that you will have the matter thoroughly investigated. The Sudder Adawlut have justly remarked that such abuses are not only calculated to corrupt the moral character of this important branch of native agency, but to vitiate the very returns on which a judgment of their efficiency depends. The court do not take upon themselves to declare that such frauds are systematically pursued in general, but they say there is strong reason to suspect their prevalence. Even if these suspicions should not prove to be well-founded, it will still be necessary to keep in mind the temptations to which the District Moonsiffs are exposed, and the injustice which parties in suits for personal property, not exceeding Rs 20 value, may suffer in their courts from the absence of those important safeguards for justice which are established in all the superior courts, viz. the recording of the evidence and the right of appeal. In suits for land before the District Moonsiffs, those safeguards have already been provided; and it is deserving of consideration, whether any inconvenience which might be apprehended from extending the rule to all other cases, would not be more than compensated by the improved security for justice which would be afforded to the poorer classes of suitors.

We are your loving Friends,

London, 21st December 1831.

(signed) *R. Campbell.*
J. G. Ravenshaw, &c.

(8.)—COPY of a LETTER from the Court of Directors, to the *Bombay* Government, dated the 15th February 1832.

Para. 4, 5, of Letter dated 18th Oct. 1828.
Para. 8, of Public Letter dated 18th Oct. 1828.
Whole Letter, dated 1st Dec. 1830.
Ditto - dated 24th Dec. 1830.
Ditto - dated 14th Jan. 1831.
Civil Justice.

1. We proceed to reply to your Letters, noticed in the margin, relating to the administration of civil justice under your Presidency from 1825 to 1827; and we shall refer to the accounts for 1828, and for the first half of 1829, which are recorded on your Consultations.

2. According to the periodical statements laid before Government by the Sudder Adawlut, the number of original suits instituted, decided and depending at the end of the year was as follows:—

	1825.	1826.	1827.	1828.	1st Half of 1829.
OLD PROVINCES.					
Instituted - - - - - -	25,586	24,300	32,178	60,945	10,188
Decided - - - - - -	23,326	26,376	28,811	64,460	11,125
Depending - - - - -	5,608	3,532	7,878	4,357	2,380
DECCAN.					
Instituted - - - - - -	12,405	15,173	24,969	25,041	6,092
Decided - - - - - -	13,403	14,779	24,465	25,488	7,344
Depending - - - - -	2,991	3,383	3,886	3,439	2,187

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3. The excessive amount of business in the courts in some of these periods, as compared with that in others, and the circumstances connected with it, should have been brought specifically to our notice. They required a full explanation, and we regret that you should have referred to them in a cursory way only.

4. The number of original suits instituted in the first half of 1828 and first half of 1829 in the Old Provinces, were as follows:—

	1st Half of 1827.	1st Half of 1828.	1st Half of 1829.
Instituted - - -	10,471	40,793	10,188

And in the Deccan, in the first half of 1826, the first half of 1828, and the first half of 1829, there were—

	1st Half of 1826.	1st Half of 1828.	1st Half of 1829.
Instituted - - -	5,542	15,167	6,092

5. This great fluctuation was owing to changes in your regulations respecting stamps. In all the courts under the Bombay Government, suits for property of an amount less than Rs 100 value had been (in common with all other suits) subject to a stamp-duty or institution-fee, till the middle of 1826, when, at the recommendation of Mr. Elphinstone, those in the Deccan were exempted from it; at the end of 1827 the same exemption was extended to the Old Provinces. About the middle of 1828 the suits in both divisions were again subjected to the tax.

6. Mr. Elphinstone, after adverting to an objection to his proposition, which had been raised on financial grounds, recorded his opinion on the subject in these words: "I must own that I doubt the accuracy of the calculation that rates the loss, by the exemption of suits under Rs 100 from the stamp-tax, at a lac and a half of rupees; but if the amount were 15,00,000, I should not have the least hesitation in supporting the exemption. I have before said that I conceive a tax on complaints from the lowest order of natives, especially ryots, to be the very worst tax that it is possible to lay upon the people. If Rs 1,50,000 or Rs 15,00,000 are to be raised, I would rather lay it upon the land, on the trade, on opium, on salt, on salaries, or on any thing rather than suits under Rs 100."

7. The rule had not been in force many months, when it was again brought to the notice of Government. In April 1828, the secretary called their attention to a falling off in the stamp collections, and ascribing this in part to small suits being exempted from payment of the duty, he suggested that the rate should be revised. Mr. Warden, who had before objected to the exemption, now again protested against it as injurious to the revenue, and vexatious to the administration of justice; and Mr. Goodwin, the other member of council, maintained the propriety of it, as he had done before. At the desire of Sir John Malcolm, who had by this time succeeded to the government, your secretary prepared a comparative statement of the stamp collections for different periods, and the result showed that, in four months before the tax was taken off, the stamp collections amounted to Rs 1,01,502, and in four months after to Rs 52,455.

8. But it might have been seen, by comparing the tables of stamp-duties under the new and old regulations, that, in addition to the exemption in favour of suits below Rs 100, various material changes had been made in the stamp laws. There was another large class of suits exempted from stamp-duty under the new regulations, viz. all those cognizable by the collector. The rates of stamp-duty for other suits, and the duties on the production of exhibits, and on applications for the summoning of witnesses, were also altered.

9. A statement, showing the average number of suits below Rs 100, filed for several years under the old regulations, with the amount of duty to which they would have been liable under the new rates, might have served as the basis of an estimate, which (though still necessarily imperfect) would have been more to the purpose than that which was submitted to you. Whatever might have been the value of the tax as a financial measure, its amount should have been calculated as accurately as circumstances would permit, and it would have remained for consideration, whether there was any object of sufficient importance to warrant a sacrifice of revenue to that amount. The Government did indeed adopt an opinion that there was no such object; but they came to this conclusion after a rough and superficial estimate of the question, without any discussion respecting it being entered on the Consultations.

10. Yet we cannot charge the Government with precipitancy, for they knew their views were in perfect accordance with those of the principal judicial officers, who on such an occasion ought to have been competent advisers. The judges of the Sudder Adawlut had expressed themselves strongly on the subject; and in one of the Circuit Reports we find the following remarks by Mr. Anderson, the fourth judge: "The practical inconvenience

that resulted from allowing suits below Rs 100 to be instituted without payment of costs, has already, I believe, attracted the attention of Government, and has been placed in progress of alteration. However* failed, it is satisfactory that the experiment has been tried; it was adopted against the voice of all experienced servants, and is an instance, perhaps, how in judicial arrangements, in most cases, it is better to be guided by the results of practice, rather than to give weight to conclusions drawn from theory."

* Orig.

11. The practical inconvenience here referred to, was that there had been a large influx of suits, a consequent severe pressure of business on the judicial officers, and an accumulation of arrears. But it should have been known to a judge of the Sudder Adawlut, that the only legitimate way to get rid of that inconvenience, was to decide the suits, not to refuse them a hearing. The theory which was thought so little deserving of attention, was a fundamental principle on which justice is administered; namely, that suits, mere applications for justice, must be taken *primâ facie* as fair demands; that to provide for the due reception, investigation and determination of such demands, is one of the first duties of Government; that to exclude any class of suits, is so far to deny justice; and that to receive those only which are paid for, is to sell justice to the rich, and to refuse it to the poor. An attention to the 58th & 59th paragraphs of our Despatch of the 23d October 1823, would have shown you the consequence we attached to the maintenance of this principle; and we cannot but regret that so good a work as that which was done by the abolition of the tax, should have been so little appreciated, and so soon abandoned.

12. From your Consultations in the revenue department, preliminary to the passing of Regulation III. of 1828, it might be supposed that the question, whether the duty should be re-imposed or not, was a question of finance; and in this view, the opinion of Mr. Elphinstone, who considered that duty as a tax upon complaints from the lowest order of natives, and as the very worst tax that it was possible to lay on a people, was, we think, entitled to more attention than it appears to have received. But in the preamble of the Regulation, a different ground is taken. It is there said, that the exemption from the stamp-duty "has been found to occasion great inconvenience, by the multiplication of unnecessary lawsuits." If this notion, of the tax serving to check unnecessary litigation, were correct, it would follow that, independently of all financial considerations, its imposition, instead of being oppressive, would be highly desirable, as a measure calculated to promote the ends of justice. And, in a matter of so great importance, it would have been proper for you to record the grounds which led to your opinion. We regret that you did not take this course, for a very cursory examination of the Statements alone would have served to confirm the soundness of the doctrine on which the exemption from the tax was founded.

13. In the following tables, made from those Statements, are shown the number of suits decreed wholly or in part, or adjusted, and the number of those dismissed for default or otherwise, in both divisions of the country in several half years:—

		1827.		1828.		1829.	
OLD PROVINCES.		1st Half.	2d Half.	1st Half.	2d Half.	1st Half.	TOTAL.
1st Class.	Decreed wholly or in part	5,652	7,397	15,743	10,294	5,397	
	Adjusted	3,150	4,764	12,137	5,416	2,501	
	TOTAL	8,802	12,161	27,880	15,710	7,898	
2d Class.	Dismissed	824	881	1,935	905	730	
	Ditto, for default	3,247	2,619	12,398	5,638	2,494	
	TOTAL	4,071	3,500	14,333	6,543	3,224	
DECCAN.							
1st Class.	Decreed wholly or in part	7,530	8,067	8,729	6,404	4,141	
	Adjusted	1,635	2,903	3,041	2,705	1,435	
	TOTAL	9,165	10,970	11,770	9,109	5,576	
2d Class.	Dismissed	1,469	713	1,016	2,067	1,385	
	Ditto, for default	313	1,635	1,002	524	383	
	TOTAL	1,782	2,348	2,018	2,591	1,768	

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(8.) Letter to the *Bombay* Government, 15 Feb. 1832.

14. The sum of these numbers in the first class is 119,041, and that in the second class 42,678. In every 1,000 suits, therefore, there were about 736 decreed or adjusted, and 264 dismissed.

15. Whether the tax was on or off, there was but little variation in the ratio of the first class of suits to the second. Of the former, there were only about two per cent. more in the first half of 1829, than in the first half of 1828.

16. All the suits of the first class were ascertained to be just demands. Among those of the second class, many that were dismissed after trial were, no doubt, *bonâ fide* suits; and of those dismissed for default, there must have been many which were so disposed of on grounds quite unconnected with the merits of the case, and many in which a just claim was satisfied by the defendant, merely on its being made known to him that the plaintiff had proceeded against him. In all cases of this last description, the plaintiff would of course disappear from the court, and the suit would be struck off the file because of his non-attendance.

17. There cannot, therefore, be any doubt that the number of *malâ fide* plaintiffs is but small in proportion to the whole; that the effect of taking off the duty was to open the door of justice to a large class of persons against whom it had before been closed; and that the effect of again putting it on, was again to close the door of justice against them.

18. The number of suits annually excluded from your courts by the re-imposition of the tax cannot be estimated at less than 70,000. Of these it may be said confidently, that more than three-fourths are just claims, and that probably, a large proportion of the remainder are equally so.

19. The unavoidable expense and trouble attendant on the prosecution of a suit at law, and the prospect of further annoyances of the same sort, perhaps of the payment of costs, or of a heavy fine, will always prove a sufficient check against vexatious litigation; and although the services of the court are undoubtedly sometimes perverted to the bad purposes of a fraudulent or vindictive man, such offences are not frequent. The proper way to check them is that by which other offences are checked, to punish the offenders; and this was accordingly provided for by Regulation IV. 1827, s. 53, c. 11; under which litigious plaintiffs are punishable by a fine from Rs 50 to Rs 500, and eventually by three months imprisonment; but it cannot be fit that innocent men, or the community at large, should be punished, merely in the hope of preventing a few false suits.

20. We see no reason to doubt the sufficiency of the existing establishment to meet the most extensive demand for justice which has yet appeared in your courts. The whole number of suits remaining undecided at the end of the year 1827, was 11,764, and at the end of the next half-year it was only 11,723, notwithstanding 55,960 suits had been filed in that half year.

21. The same, or nearly the same, number of native functionaries, that is to say, 80 in the first half of 1827, and 79 in the first half of 1828, disposed of 19,879 suits in the former period, and 52,794 in the latter; and when we observe the large number of decisions passed by some of them, and the small number by others, we are led to conclude that, by judicious arrangements and an improved superintendence over the native tribunals, the number of their decisions might be greatly extended.

22. By the decrease of the stamp collections, and by the equivalent paid to the commissioners in lieu of their fees, a considerable loss fell on Government. The Sudder Adawlut showed that the amount paid to the commissioners for fees in the first half of 1828, was Rs 1,16,991. We are of opinion, however, that the system of paying the commissioners should have been revised, and that an adequate fixed allowance should have been paid to every individual in reference to the importance and extent of his business. The mode of paying native judges by fees, instead of a fixed salary, appears to us objectionable; and although we are not prepared to give you any positive orders on the subject, we should have been glad if you had taken into consideration the expediency of altering that part of the existing system. The whole sum, including fees and salaries granted to eighty native judges in the first half of 1827, amounted to Rs 91,818; and the allowances to seventy-nine, in the first half of 1828, to Rs 1,52,871. This gave, on an average, above Rs 191 a month to each person in the first period, and above Rs 322 in the second. It appears to us that this last rate of payment was unnecessarily high, and that it would have been much less objectionable to meet the deficiencies in the treasury by withholding from those officers any increase of their allowances, than by re-imposing the tax on small suits.

23. Having thus made you fully acquainted with our sentiments respecting the stamp-duty on suits of small amount, we desire you will again take the subject into consideration; and if you do not agree with us in the propriety of abolishing the tax, you will report to us, distinctly, the ground of your determination, showing, according to the best estimate that can be formed, the extent of the increased demand for justice which its abolition would bring upon your courts; with the means of meeting that demand, and the probable expense with which the measure would be attended, both in the way of sacrifice of revenue, and in additional payment to judicial officers. We desire, also, to be furnished with a statement of the number of instances in which plaintiffs have been fined for litigious suits under the Regulation above referred to, as far as the same can be furnished.

24. The

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24. The number of appeals preferred from the decision of the registers and assistant judges and native tribunals, was as follows:—

	1825.	1826.	1827.	1828.	1st Half of 1829.
Old Provinces	900	1,008	764	1,147	566
Deccan	249	560	996	653	403
TOTAL	1,149	1,568	1,760	1,800	969

25. The number of such appeals decided were—

	1825.	1826.	1827.	1828.	1st Half of 1829.
Old Provinces	702	1,433	770	764	669
Deccan	305	584	897	755	362
TOTAL	1,007	2,017	1,667	1,519	1,031

26. And the number remaining undecided were—

	1825.	1826.	1827.	1828.	1st Half of 1829.
Old Provinces	536	110	204	497	434
Deccan	253	261	370	347	388
TOTAL	789	371	574	844	822

27. The increased number of decisions on original suits, at the time the duty on small suits was taken off, accounts for the increased number of appeals. The arrear, however, is inconsiderable, in comparison with the number of decisions within the year.

28. From some apparent inaccuracies in the Statements, we are unable to make out any clear account of the business in the Sudder Adawlut; but it appears from the register's Letter dated 28th March 1828, that the arrear in that court has for some years past continually increased; that at the end of 1825 it consisted of 82 appeals, and at the end of 1826 of 160, and at the end of 1827 of 227. The number of appeals instituted in those years being 114, 225, and 211 respectively. You have stated to us that this arrear has arisen from the court being deprived of the services of the fourth judge, and from the periodical interruption of civil business by the absence twice a year on circuit of one of the three judges. We observe, however, that there has been some correspondence between your Government and the judges respecting the cause of the delay of business before them: the judges ascribe it to the provisions of a regulation in your new code, and the Government ascribing it to their perseverance in conducting the business in a particular way not required by the regulation. We trust that you have at length come to a right understanding with the court on this subject; and it is indispensably necessary that some distinct course should be prescribed and peremptorily enforced, so that there may be no longer an accumulation of suits on the file of the Sudder Court.

29. Of the suits cognizable by Europeans, a considerable number were decided by the collectors, to whose jurisdiction, under ch. 8, Regulation XVII. of 1827, belong almost all suits relating to land, its rent and produce. A statement of these suits, including all such as are referred by the collectors to their ramavisdars or other officers, under Reg. VI. of 1830, should be included in the general reports on the administration of civil justice.

30. The proportionate number of original suits disposed of by Europeans and natives respectively, is sufficiently shown by the decision in the first half of 1827 and the first half of 1828, which were as follows:—

	1st of 1827.	1st of 1828.
By Europeans	2,762	3,249
By Natives	19,787	52,752

31. Separate

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(8.) Letter to the *Bombay* Government, 15 Feb. 1832.

31. Separate statements relating to Dharwar have not been regularly furnished; the latest which we have found are for the two half years of 1827; from these we have made the following extracts, which are sufficient to show generally the extent of the business in that district.

	1st Half of 1827.	1st Half of 1828.
Original Suits instituted -	1,604	1,934
Decided - - - - -	1,863	2,173
Depending at the end of the year - -		617

32. Dharwar having been constituted a distinct Zillah, reports of its judicial business will of course in future be forwarded with those of the other districts.

33. This province was brought under your general Regulations in March 1830, by Regulation VII. of that year. The collector, however, held the joint offices of judge and session judge, as well as those of collector and magistrate. A proposition was afterwards made by Mr. Romer to appoint a separate judge and session judge at Dharwar. This, however, was objected to by Sir John Malcolm, and we understand that it had not been carried into effect. We observe that on this occasion the Governor appended to his minutes extracts of letters which he had received from Mr. Nisbet, the collector of Dharwar. We disapprove this mode of conducting public business, by extracts from unofficial communications. A full report on the state of the district and of the business, should have been furnished by the collector through the visiting Judge of the Sudder Adawlut, whose comments on the whole would have assisted in bringing the case properly before Government. At all events the necessary documents should have been regularly recorded. We must here remark, however, that there is an official document on your Consultations of the 13th May 1829, viz. a Report of one of the judges of the Sudder Adawlut, exhibiting a view of the state of the district in several respects different from that given by Mr. Nisbet. That Report certainly gives a favourable idea of the situation of Dharwar generally, and of the exertions of Mr. Nisbet; but it also adverts to several defects, which seem to point out the expediency of making some change in its judicial arrangements. The information communicated to us respecting Dharwar is, however, altogether insufficient to enable us to form any decided opinion on the proposed arrangement. But we are decidedly averse to the union of such powers as those held by the collector of Dharwar, and we desire that they may not be so continued for any period longer than the necessity of the case may seem to require. A separate judicial officer should be appointed there as in other Zillahs.

34. In your Letters of 1st December 1830, you have drawn our attention to the state of the judicial business in the Poona Zillah, and you have informed us of your having nominated a joint judge and session judge to afford temporary assistance in reducing the arrears. This temporary arrangement seems to have been very proper.

35. In your Letter dated 14th January 1831, you have referred for our decision a suggestion of Mr. Romer's, that the innovations in the new code respecting perjury should be cancelled, and the provisions of the old code restored: also, that in regard to the crime of subornation of perjury, the advocate-general should be consulted on the propriety of providing for its definition and punishment by direct and express enactment.

36. We entirely agree with Sir John Malcolm and Mr. Newnham, in objecting to make any attempt to assimilate the provisions of your Regulations to those of the English law, or to consult the advocate-general, as proposed by Mr. Romer. We are also of opinion with the Governor, that the law which provides for the punishment of instigation to perjury renders any separate enactment for the punishment of subornation of perjury unnecessary. On the other hand, some of Mr. Romer's objections to the new law appear to us to be well deserving of attention.

37. We shall not, however, enter upon a detailed discussion of the questions referred to, being of opinion that they will be much more properly brought to a determination by your government, after making a reference on the subject to the judges of the Sudder Adawlut.

38. You have sent us, through your secretary, copies of several Regulations passed by you in 1830, but you have not made any communication to us on the subject of the new enactments. We shall here briefly notice those which refer to the department of civil justice.

39. By Regulation I. of 1830, you have rescinded Regulation VII. of 1828, under which a provincial court of appeal had been established; and you have extended the jurisdiction of native commissioners to the cognizance of all original suits, of whatever amount. Of these measures, the former is in conformity with our orders; and the latter was adopted on the recommendation of your late president, Sir John Malcolm.

40. We remark that it was not on account of the state of the business, but with a view to economy, and to the advantage of that class of people from which the commissioners are taken, that the jurisdiction of those officers was thus extended. The cases excluded from their jurisdiction are, 1st, suits against all public officers, whether European or others, for acts done in their official capacity, unauthorized by any Regulation; 2d, suits in which either

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either of the parties is an European or an American, or is related to the commissioner, or is his servant or dependant, those in which the commissioner is personally interested in the suit, or in which the evidence could be more conveniently taken elsewhere, or where other sufficient reason exists why the commissioner should not take cognizance of the case; 3d, suits cognizable by the collector, viz. all disputes in regard to the tenures of land and its rent, and regarding the use of wells, tanks, water-courses, roads to fields, and boundaries. Suits of the two first classes are to be tried by the judge, or may be referred by him to his assistants. With these exceptions, all original suits, of whatever amount, are to be tried by native commissioners; they may be either filed in the commissioners' courts or referred to them by the judge.

41. Appeals from the decisions of native commissioners, when the amount of the suit does not exceed 5,000 rupees value, may be referred by the judge to the senior assistant.

42. By Regulation II. of 1830, it is provided, that decisions on appeals from the decisions of the native commissioners shall be open to appeal to the Sudder Dewanny Adawlut, in cases where the sum adjudged in confirmation of the commissioners' decree, or the amount at issue amounted to or exceeded 3,000 rupees value; and, if modified or reversed, the sum disallowed or at issue amounted to or exceeded 1,000 rupees. A special appeal to the Sudder Dewanny Adawlut is open in all cases under the prescribed rules.

43. By Regulation V. of 1830, sub-collectors are vested with the same powers as collectors in the decision of suits and appeals.

44. By Regulation VI. the collectors and sub-collectors are authorized to refer to the Komavisdars suits instituted under C. 8, Regulation XVII. 1827, when the amount does not exceed 500 rupees. Appeals from the decisions of assistant collectors and Komavisdars are open to the collector or sub-collector, and a further appeal to the Sudder Dewanny Adawlut; when, if the decree was confirmed, the sum adjudged or at issue amounted to or exceeded 1,000 rnpees, or if modified or reversed, the sum disallowed or at issue amounted to 200 rupees. A special appeal to the Sudder Dewanny Adawlut is open in all cases under the prescribed rules.

45. Regulation VII. of 1830, respecting Dharwar has been noticed above.

46. By Regulation XIII. powers of deciding civil suits may be granted by government to Jageerdars and others, according to a list furnished by government; these persons are to have authority to decide all original suits, of whatever amount, that may be filed in their courts, or referred to them by the judge. All persons residing in the jurisdiction of the Jageerdar must bring their suits before him, unless when the parties both agree to the contrary, or where one of the parties is an European or an American, or is the relation or dependant of the Jageerdar, and an objection is made on that ground. Suits so excepted, to be sent to the judge; the Jageerdar is to pass a written decree recording the proceedings held, and his judgment in every case. The decisions of the Jageerdars enumerated in the list shall be final; this, the Regulation says, is in conformity with right and authority by tenure. The decisions of other Jageerdars are to be appealable, some to the agent for Sirdars' claims and some to the judge, with a special appeal in certain cases to the Sudder Dewanny Adawlut. Decrees of a Jageerdar, are not to be set aside for want of form in the proceedings. Jageerdars to execute their own decrees.

47. By Regulation XVIII. a joint judge was appointed to assist in the administration of civil justice in Poona. This subject we have before referred to.

48. We observe also that by Regulation I. of 1831, you extended the jurisdiction of the agent for Sirdars' claims to the cognizance of suits connected with land, its rent and produce, wherein persons of rank of the privileged classes are concerned, and which by the general Regulations were under the collector. Your proceedings which led to this enactment have not yet been received.

49. We must express to you our strong disapprobation of your adopting measures like these, not only without previous reference to us, but without making to us any communication on the subject. We expect to receive from you a distinct Report respecting these alterations.

50. In reference to the sentiments communicated to you in our despatch of the 27 May 1829, and to the remarks contained in the paragraphs 20 to 27 of the Calcutta Finance Committee's letter, dated 30 May 1829, which correspond very nearly with our own views; adverting also to the provisions of Regulation I. of 1831, we desire that you will reconsider the whole system of exemptions from the ordinary course of justice which are enjoyed by privileged persons under your Presidency. We direct that the lists of those persons be revised, that the names of all such as have no pretensions to be placed on a different footing from their neighbours in regard to the administration of justice, be struck out, that new names be not added without previous reference to us, and that every fair opportunity be taken of reducing the lists as much as possible.

51. We desire that the general reports of business in the civil courts may include an account of cases before the agent for Sirdars' claims.

London, 15 February 1832. (signed) *R. Campbell, J. G. Ravenshaw, &c.*

Appendix, No. 1.

(9.)—Letter to the *Bombay* Government, 28 Mar. 1832.

(9.)—COPY of a LETTER from the Court of Directors, to the *Bombay* Government, dated 28 March 1832.

WE proceed to reply to the paragraphs of your Letter noticed in the margin, which refer to the Reports on police and criminal justice. Letter, dated 18 Oct. 1828, paras. 6 to 15.

We had not till the end of 1831 received any general report from you on the periodical statements furnished to your government from the criminal department to any later period than the year 1827, nor have we found on your Consultations any statements later than those for 1828. The Circuit Reports for your Presidency are not only very irregularly supplied, but for a considerable time they have not been noticed in your letters. We cannot pass over these irregularities without expressing our marked dissatisfaction at such neglect. We desire that in future the necessary documents may be duly prepared and forwarded to us punctually.

We proceed to offer such remarks as have occurred to us on an examination of the statements from 1825 to 1828, and the reports accompanying them. The statements for the Deccan are more incomplete than those for the Old Provinces.

The following is an Account of the number of Complaints said to have been preferred to the several authorities in both Divisions of the Country, and of the persons apprehended, from 1825 to 1828.

	OLD PROVINCES.				DECCAN.			
	1825.	1826.	1827.	1828.	1825.	1826.	1827.	1828.
Complaints cognizable by Heads of Villages and District Police -	3,380	3,138	3,456	4,062	222	1,019	616	1,430
Ditto - by Magistrates and their Assistants - - - - -	1,252	1,220	1,300	2,589	2,004	1,914	2,176	2,138
Ditto - by Criminal Judges -	3,380	3,258	2,607	2,769	146	116	134	157
TOTAL Complaints - - -	8,012	7,416	7,363	8,530	2,372	2,579	2,926	3,090
Number of Persons apprehended -	10,352	9,228	9,347	10,786	3,951	3,919	4,298	4,517

Of those apprehended, the number acquitted were as follows:—

	OLD PROVINCES.				DECCAN.			
	1825.	1826.	1827.	1828.	1825.	1826.	1827.	1828.
By the Magistrates and their Assistants, and Heads of Villages and Districts - - - - -	557	826	675	892	1,239	1,524	1,747	1,796
By the Criminal Judges - -	2,036	2,100	1,988	2,212	35	48	78	79
By the Circuit Judges - - -	50	43	37	21	–	–	–	–
By the Sudder Foujdary Adawlut -	3	6	–	1	–	–	3	12

And there were punished—

	OLD PROVINCES.				DECCAN.			
	1825.	1826.	1827.	1828.	1825.	1826.	1827.	1828.
By Heads of Villages and Districts -	4,638	3,746	4,248	5,277	320	501	821	1,039
By Magistrates and Assistants -	1,026	920	946	1,193	2,127	1,658	1,431	1,354
By Criminal Judges - - -	1,725	1,636	1,377	1,065	210	162	151	236
By Courts of Circuit - - -	187	141	162	89	–	–	–	–
By Sudder Foujdarry Adawlut -	32	27	45	49	–	27	30	67

Appendix, No. 1.

Civil and Criminal Courts at the Three Presidencies.

The punishments by the Criminal Judges and Superior Courts were as follows:—

	OLD PROVINCES.				DECCAN.			
	1825.	1826.	1827.	1828.	1825.	1826.	1827.	1828.
Fined	238	328	186	160	–	1	–	–
Imprisoned one year and under, with or without corporal punishment or fine	1,198	859	747	489	25	21	13	28
Imprisoned more than one year and not more than seven, with or without corporal punishment or fine	420	362	355	308	148	113	102	129
Imprisoned for 14 years	25	12	9	32	–	1	12	38
Imprisoned for life or transported for life	12	9	31	15	–	19	11	18
Capital punishments	16	18	12	25	–	6	7	11

The unequal numbers of persons punished by the magistrates and criminal judges, and Court of Circuit in the Old Provinces, and in the Deccan, may be accounted for in some degree by the powers of the officers being different in the two divisions; but there are some other very remarkable differences in the statements. The number of complaints, especially those cognizable by natives, and the number of persons apprehended, are very inconsiderable in the Deccan, compared with those in the Old Provinces. In the Old Provinces, the numbers acquitted by the magistrates and their assistants, and by the heads of villages and districts, are very small in proportion to the numbers convicted. The numbers punished by the heads of villages and districts in the Old Provinces, are very great in proportion to those in the Deccan. These numbers are so very disproportionate, in reference to the supposed population of the two divisions, as to throw great doubt on the accuracy of the returns.

Note. Population of Old Provinces about 2,350,000. Deccan about 1,550,000.

8. We desire that in furnishing these statements, the Sudder Foujdarry Adawlut will notice particularly any remarkable differences which appear to require explanation; and will account for them as well as they can.

9. The Deccan having been now placed under the same general system as the Old Provinces, and the powers of the magistrates and criminal judges having been made alike in both divisions, we trust that in future there will be no material dissimilarity in the returns, except in regard to matters which will be sufficiently explained by the circumstances of the different districts.

10. An account corresponding with that which we have above given for the Old Provinces, in the years 1825 to 1828, of the number of persons sentenced to punishment under the several heads, should be furnished to us for the Deccan in each year from 1819 in both divisions; and it should be noticed whether the offences for which persons were executed, were for crimes including or not including murder.

11. It has long been the practice in Bengal for the local officers to furnish periodical reports of crimes ascertained to have been committed in their several districts. We desire to have corresponding returns from your Presidency. You will procure from Bengal a copy of the forms which have been found most convenient there, and you will adopt them, with such alterations as you may think appropriate. These returns should be transmitted by the magistrate, through the Zillah judge, to the Sudder Foujdarry Adawlut, and every care should be taken to ensure their correctness.

We are your loving Friends,

London,
28th March 1832

(signed) *R. Campbell.*
J. G. Ravenshaw, &c.

Appendix, No. II.

A SELECTION of PAPERS containing Discussions relative to the Measures recommended by the Home Authorities in 1814, and the Modifications introduced into the *Indian* Codes.

Appendix, No. 2.

(1.)—Letter from the *Bengal* Government, 22 Feb. 1827.

(1.)—COPY of a LETTER from the *Bengal* Government to the Court of Directors, dated the 22d February 1827.

Honourable Sirs,

Para. 1. IN your letter of the 8th December 1824, you have enjoined us to furnish a specific reply to your Honourable Court's despatch of the 9th November 1814, reviewing the Judicial Institutions under the Presidency of Fort William, and suggesting various important modifications in the system then in force for the administration of Civil and Criminal Justice, and for the management of the Police.

2. The separate letters addressed to your honourable Court, under dates the 7th of February 1817, and 1st of September 1820, and various incidental notices in other despatches, have apprised your honourable Court of the proceedings adopted by the Supreme Government, either in consequence of or in immediate connection with the instructions communicated in your despatch above referred to; you have been furnished with the Reports of the Sudder Dewanny Adawlut, and Nizamut Adawlut, the Boards of Revenue, the Superintendents of Police, and the subordinate officers in the Judicial and Revenue Departments, who were required to submit their sentiments on the modifications proposed by your honourable Court; and the sentiments of the Marquess of Hastings, Mr. Dowdeswell and Mr. Stuart, on various points connected with your instructions, are recorded in their Minutes, dated respectively the 2d October 1815, the 22d September 1819, and the 21st October 1820.

3. The circumstances which opposed any unanimous or immediate decision upon the merits of the various measures which you had suggested, are very clearly and forcibly detailed in Mr. Stuart's minute; and we are persuaded, that in consideration of those circumstances, of the subsequent changes in the members of the Supreme Government, and of the pressing demands on the attention of the Governor-general in Council during the continuance of the war with Ava, your honourable Court will be disposed to view with indulgence the delay which has occurred in replying to your instructions.

4. The information which was furnished to us by the Government of Fort St. George in the year 1818, and more especially the tenor of the Reports of the Sudder Adawlut, and Board of Revenue under that Presidency, did not justify the inference that the corresponding changes which had been introduced in the year 1816 in the judicial institutions of that Presidency, were likely to prove very successful, or to fulfil the expectations under which they had been enjoined and carried into effect; while the Report of the Judicial Commissioners at Madras, dated the 15th October 1818, was equally calculated to induce the Supreme Government not to introduce precipitately in these provinces a system, the real merits and advantages of which could not, in the opinion of the Commissioners themselves, be ascertained until it had been pursued steadily for a period of six or seven years.

5. We now proceed, in conformity with your repeated injunctions, to submit to your honourable Court's consideration our views and sentiments on the various suggestions contained in your despatch of the 9th of November 1814.

6. We shall advert to those suggestions, and to the grounds on which they are recommended, in the order in which they are treated in that despatch. Where the modifications in our judicial institutions, which you have suggested, appear to us open to decided objection, we shall candidly state those objections for your further deliberation. We shall explain the extent to which we have already given, or propose to give effect to other parts of your instructions, or to measures directed to the same end, which have appeared to our predecessors and to ourselves calculated to promote the public interests.

7. In reviewing the administration of civil justice under the Presidency of Fort William, your honourable Court have first adverted to the heavy arrears of regular civil suits depending before the several judicial tribunals (and which are supposed by your honourable Court to form only a small proportion of the cases of individuals who stand in need of

Appendix, No. 2.

judicial protection,) as a proof of the insufficiency of the existing provisions for administering civil justice within the extensive and populous range of territory under this government.

Par. 5 to 13.

8. You have referred more particularly to those injuries to which the ryots are exposed from excess of collections, or undue exactions made from them by the zemindars, and their under-tenants, and to disputes regarding the right of possession in land, crops or water-courses; you have observed that the great subdivision of zemindaree property from the sales of land, and the extended operation of the Hindoo and Mahomedan laws of inheritance, are likely still further to augment litigation, and that the increasing demands for justice which must in consequence be experienced, will render the present system far more unequal to its proposed purposes than it was when your honourable Court's letter was written; and that as the wants of the system could not be adequately supplied by an augmentation of the European part of the judicial establishment, the remedy must be sought by employing natives in conducting this branch of internal regulation.

Par. 13 to 36.
Par. 37 to 42.

9. In the general justness of your honourable Court's remarks under the foregoing heads, we readily avow our concurrence.

10. Other causes however, besides those which are assigned by your honourable Court, or those which can justly be attributed to the defective system or organization of our civil tribunals, may be adduced to account for the existing mass of litigation, and for the daily increasing number of applications to our courts, for the redress of real or supposed grievances.

11. Amongst these causes may be reckoned the growing confidence of the people in the general proceedings of our tribunals, and the progressive demands arising from a rapidly increasing population, from extended cultivation, from the rise in the value of landed property, from the progress of internal trade and commerce, and from the general prosperity of the country.

12. It is needless to remark, how much the proceedings of all our tribunals are delayed and embarrassed by the notorious disregard for truth, so generally displayed by the natives in giving evidence, and from their want of moral principle, evils which cannot be mitigated or remedied by any direct or immediate modification of our judicial institutions; but as having a far more extensive operation than all of the foregoing causes, we are led to ascribe the alleged inadequacy of our civil tribunals in the Lower Provinces to meet the demands upon them, to the precipitation with which the permanent settlement was carried into effect, without previously defining the relative rights and interests of the zemindars and other landholders, and the various classes of the cultivating population, or without providing such means as would have enabled the courts of justice to ascertain those rights and interests by recourse to recorded documents, in those controversies which form directly or indirectly, not only the most numerous, but often the most embarrassing of all the questions which are brought forward for judicial adjudication.

13. The rules now in force for ascertaining, adjusting and recording those rights and interests in the districts into which a permanent settlement has not yet been introduced, will, if it is found practicable to carry them into effect in the spirit and to the extent contemplated by government, go far to render the future administration of civil justice in those portions of our territory simple and efficient.

14. In very few of the districts so situated, are the arrears of civil suits heavy, and where they are so, (in Allahabad, Cawnpore and Goruckpore, for instance,) the cause of the arrear is clearly traceable to local defects and irregularities in the past system of revenue management.

15. Controversies regarding succession, inheritance, adoption, marriage, dower, gift and other questions more immediately connected with Hindoo and Mahomedan law, form a comparatively minute portion of the number of suits brought into our courts. Claims or disputes relative to debts, simple contracts, mercantile transactions and other dealings of ordinary occurrence, or for personal damages, though necessarily more numerous, admit generally of easy adjustment. The real pressure upon our tribunals arises from the mass of litigation connected with the rights, tenures and interests of the proprietors and occupiers of land. This pressure could not, we apprehend, be removed by any modification in the nature and description of our tribunals. It is now too late to apply an effectual remedy to an evil which might have been guarded against when the permanent settlement was formed, but it is and will be our anxious wish to adopt such measures, both in the Revenue and Judicial Departments as may be feasible, with a view to define the rights and interests of the cultivators, and to secure those rights.

Civil Cons. 19th Oct. 1826, Nos. 5 to 11.
Civil Cons. 8th Feb. 1827, Nos. 8 to 15.

16. In connection with this subject, we beg to refer your honourable Court to the documents noticed in the margin, copies of which accompany this despatch as separate numbers in the packet.

17. In the present stage of the business, it is sufficient briefly to notice the principal objects contemplated in the draft of the regulation proposed by Mr. Harrington for more fully declaring and securing the rights of khoodcasht ryots, and other permanent under-tenants of lands.

18. They

Appendix, No. 2.

(1.) Letter from the *Bengal* Government, 22 Feb. 1827.

18. They are as follow:

1st. To explain the intention of the existing regulations in recognizing the hereditary and transferable rights of zemindars, independent talookdars, and other proprietors of malgoozarry lands, as not meant to abrogate or abridge the prescriptive rights and privileges of dependent talookdars, hereditary or permanent ryots, or any other description of under-tenants or cultivators of the soil; to provide expressly for securing the rights and privileges of under-tenants, possessing an heritable and transferable property in their tenures, as well as of those entitled to a permanent right of occupancy on certain conditions; and to declare the restricted property and interest of the zemindars, independent talookdars and other sudder malgoozars, with respect to lands occupied by permanent under-tenants, such as those above mentioned; also, to declare a similar reservation of rights of property or occupancy, belonging to the actual possessors or cultivators of land included in jageers, or other lakheraj grants.

2dly. To explain the real and sole objects intended by parts of Regulations V. & XVIII. 1812, which are supposed to have been very generally misconstrued and misapplied, as vesting the zemindars and other superior landholders with a discretion in raising the rents of their under-tenants, not before possessed by them under the ancient laws and usage of the country.

3dly. To explain the rules passed for enabling sudder malgoozars to realize the rents payable to them, as not meant to limit the actual rights of any description of landholder or tenant; and to amend the existing rules relative to the pottahs and rents of khoodcasht ryots, and other permanent under-tenants, entitled to hold their tenures at a fixed rent, or a rent determinable by the rates of the pergunnah, or other known rule of adjustment, by declaring such under-tenants not liable to the payment of any enhanced rent, without a written engagement to pay the same; or, if the justness of the demand be contested, without a judicial decision in a regular suit.

4thly. To declare the intention of the existing rules of process which have been prescribed for sudder malgoozars desirous of enhancing the rents of their under-tenants, with a further enactment, when the sudder malgoozar may proceed by distraint for the recovery of enhanced rent, without a specific engagement, and the justness of the demand may be disputed by the under-tenant. The demand of enhanced rent not to be recoverable by distraint in such cases, without proof of the claimant's title thereto in a regular suit; and no khoodkasht ryot, or other permanent under-tenant, to be ejected from his tenure on a plea of default and forfeiture, without a regular decree of court. Dispossession by force or threats, in opposition to this rule, to be cognizable by the magistrate, under Regulation XV. 1824, and to be punishable, on conviction, by a penalty equal to three times the annual rent of the land.

5thly. To provide for a careful investigation and decision of the rights and interests of the parties, in all cases of disputed permanent tenures, between superior landholders, farmers or managers, and subordinate tenants of malgoozarry land; as well as in similar cases of dispute between holders or managers of lakheraj land, and the owners, occupants or cultivators of lands in such tenures; and to make provision for the requisite accounts and information being furnished in such cases by the village putwary and pergunnah canoongo.

6thly, and lastly. To establish certain general rules for the guidance of the courts of judicature, collectors, or other public officers, who may be authorized to adjust and determine the rents payable by ryots or other under-tenants of land, as well in regular and summary suits as in all other cases whatever in which the officers of government may be empowered by the regulations in force, or by the special orders of the Governor-general in Council, to adjust the rents payable by the cultivators and under-tenants of land, especially by such as possess a permanent right of occupancy in their tenures, subject to a fixed rent, or a rent determinable by the rate of the pergunnah, or other known rate of adjustment.

19. The detailed provisions of the proposed regulation will demand the most mature consideration, and we shall avail ourselves of the experience of the Boards of Revenue and the suggestions of other competent officers, before finally enacting the regulation in question; and we have brought the subject under your notice in its present immature state, chiefly with a view of satisfying your honourable Court of our anxiety to meet the wishes you have so frequently expressed on this very difficult and important question.

20. We now proceed to advert to the specific remedies suggested by your honourable Court for the more effectual administration of civil justice.

21. In the fifth paragraph of the Report of the Sudder Dewanny Adawlut, dated the 9th March 1818, the suggestions are divided into 12 classes; but it appears to us that they may be conveniently arranged under three general heads, viz.

Civil Cons. L.P. 1820, 24th March, No. 57.

1st. Such as relate to the more extended employment, in the distribution of civil justice, of native agency, and especially in the form of punchayets, and in the persons of those who are considered to be the permanent and natural village authorities, or to possess influence as the heads of particular classes, professions and tribes of the inhabitants.

Par. 43 to 62, and par. 88 to 90, of the Court's Despatch.
Included in the 1st, 2d, 3d, 4th and 12th heads of the Report of the Sudder Dewanny Adawlut.

Par. 61 to 67 of the Honourable Court's Letter.
Included in the 5th, 6th, 7th and 8th heads, and in the 6th par. of the Report of the Sudder Dewanny Adawlut.

2d. Such as relate to the limitation of appeals; the simplification and abbreviation of the forms, proceedings and processes of our established courts; the improvement of the office of vakeel; the reduction of law expenses, and the suggested institution of a new court of Sudder Dewanny Adawlut.

Par. 68 to 87 of the Honourable Court's Letter.
Included in the 9th, 10th and 11th heads of the Report from the Sudder Dewanny Adawlut.

3d. Such as relate to the transfer from the judicial to the revenue authorities of claims regarding land, rent, distraint, undue exactions and boundaries, and to the improvement of the existing rules on these subjects, as well as regarding the interchange of written engagements between the landholders and the ryots.

22. With regard to the plan of investing the munduls, mocuddums, gomashtas or other heads of villages, however designated, with judicial powers, we would observe, that the number of mouzas or villages comprised within the provinces to which our code of regulations extends, is assumed, according to different calculations, at from 360,000 to 400,000; and that whatever may have been the case in former times, there are not now to be found in a great majority of those villages, any persons either actually possessing or supposed to possess the influence, authority, advantages or emoluments appertaining to the class of officers contemplated by your honourable Court, as the natural and permanent heads of the village institutions.

23. In Bengal especially, the real head of the village, or in other words, the person possessing the chief influence and authority, is either the proprietor of the village, or the gomashta or agent, paid and employed by the zemindar or farmer to manage and collect his rents, or the under-renter of such zemindar or farmer. These are not the natural or permanent village authorities contemplated by your honourable Court, but the very individuals who, either directly or indirectly, are the oppressors of the cultivating classes, by undue exactions and other injurious acts, which it is the object of your honourable Court to remedy; and it is obvious that to confer judicial powers on such persons would be to deliver the ryots bound hand and foot into the power of their greatest enemies.

24. We observe, indeed, that such powers have been conferred on renters of villages in some parts of the Madras territories, but that the measure was earnestly deprecated by many of your best informed servants under that Presidency; and unless the standard of the native character is much higher in that part of India than it is here, we should anticipate from its adoption, results very opposite from those benevolent objects to which your honourable Court's instructions were directed.

25. Excluding therefore from those on whom it is proposed to confer judicial powers, as heads of the villages, the resident proprietors and farmers, the subrenters of proprietors and farmers, and their gomashtas, stewards or agents, the first difficulty which would present itself in constituting the heads of villages to be village moonsiffs, would be the selection of the individuals best entitled to the designation of mundul or mocuddum, and as such possessing, or supposed to possess, a natural and permanent local authority as head of the village.

26. We are satisfied that in the Lower Provinces individuals so qualified will very rarely be found to exist, and that where the title of mundul or mocuddum may yet be recognised, the person so designated will still more rarely be found to enjoy any defined rights, privileges or emoluments annexed to it. We may remark also, that amongst those who are from time to time designated as munduls or heads of villages, the title has been in some instances obtained, not by any greater opulence or rank, not by hereditary claims or any superiority of worth or intelligence, but by a greater turbulency and litigiousness of character, which has given them an ascendency over their more timid and peaceable neighbours; and that in other cases a claim to the title is asserted by different individuals, which becomes the source of feuds and animosities between parties in the same village. But supposing that it were found practicable to trace and select individuals of the description contemplated by you, there would naturally arise a general objection on their part to undertake a novel duty without receiving some pay or emolument in compensation of their labour, responsibility and loss of time; nor do we perceive with what justice this objection could be over-ruled, while, if they voluntarily consented to undertake the duty without remuneration, we could ascribe their willingness to do so to no other motive than the expectation of deriving illicit advantages from the power they would possess. In almost every instance it would be the interest of these heads of villages to conciliate the favour and good will of the zemindar or farmer, or their agents; and it is the concurrent opinion of all our best informed public officers, that it would be impossible to place any confidence in the justice or impartiality of such village moonsiffs in cases in which the interests of the ryots and inferior classes of inhabitants might be opposed to those of the zemindars or farmers, or of their agents.

27. Of functionaries thus characterized, there would be on a general average between 7,000 and 8,000 in each district, who under similar rules to those established under the Presidency of Fort St. George, would be authorized to hear, try and determine of their own authority and without appeal, such suits as might be preferred to them for sums of money or other personal property, not exceeding in value or amount 10 rupees; to hear, try and determine in their capacity of arbitrators similar suits to the amount of 100 rupees; to proceed

proceed *ex parte* if the defendant should refuse or neglect to attend; to take the oral depositions of witnesses without committing them to writing; to fine recusing witnesses, as well as parties, vakeels or witnesses for disrespect; or to imprison them for 12 hours if the fine be not paid; and to cause execution of their decrees to be enforced by a sale of the defendant's property, unless charged before the Zillah judge with corruption or gross partiality within 30 days from the date of the decree.

28. These powers must, under the principles of the Madras rules, be imposed in each village on some one individual who may be designated the head of the village, however reluctant he may be to exercise them, whatever may be his character or qualifications, or, what appears of still more importance, his relation to the zemindar or farmer.

29. The only control which can be exercised over them is that which goes to prevent the execution of their decisions in cases in which they may appear both to the Zillah judge and provincial court to have been guilty of corruption or gross partiality; and the rule which permits either party in a case to prosecute them for damages in the Zillah court for any oppressive and unwarranted act of authority. But, limited and weak as this control undoubtedly is, we are satisfied, that in this part of India, the Zillah judges and provincial courts would not be able to investigate and decide upon the complaints which would be brought before them, with the despatch necessary to render the control practically useful; while if the powers of superintendence to be exercised by the Zillah judge were to be extended so as to be really efficient, the labour devolving upon him would preclude him from paying proper attention to his more important duties.

30. In concluding their review of this branch of the subject, the Court of Sudder Dewanny Adawlut have expressed their sentiments in the following terms: "We are decidedly of opinion that every encouragement should be given to the munduls, mocuddums, and other heads of villages to arbitrate and settle, *as heretofore*, any trivial disputes between the inhabitants of their respective villages which may be voluntarily submitted to their adjustment and award. But on a general consideration of the objections which have been stated, we must deliberately repeat the doubt already expressed by us on the expediency of vesting them with any regular judicial authority, and a defined civil jurisdiction, in the numerous villages which subsist in every Zillah under this Presidency."

31. Concurring as we do in the foregoing sentiments, we must add our firm conviction that no modifications of the system adopted at Madras for the regulation of the office of village moonsiff, which would not be subversive of the principle on which that regulation is founded, could render the class of officers indicated generally useful in the regular administration of civil justice in this part of India; but that, on the contrary, the attempt to introduce a similar system in Bengal would be attended with nearly insurmountable difficulties; and that if it were introduced, it would be productive of results in the highest degree injurious to the interests of those very classes for whose benefit it is more particularly designed.

32. In the foregoing remarks on the office of village moonsiff, we have not adverted to that part of your honourable Court's suggestions, in which it is proposed that village punchayets should be assembled under the authority of the village moonsiff, either to aid the latter in the trial of civil claims brought before him in that capacity, or to act as arbitrators in other civil cases voluntarily submitted to the punchayet for award; and it will be convenient to consider this question in connection with the corresponding though more extensive authority proposed to be vested in district moonsiffs, in regard to the assembling of district punchayets for similar objects.

33. According to the best information which we possess, the punchayets, under the Hindoo law and practice of former ages, had no jurisdiction or cognizance of causes, except such as were voluntarily submitted to them by the parties for arbitration. The punchayets are expressly declared to be constituted at the request of the parties; and the consent of the members of the punchayet to act in that capacity was to be obtained by solicitation, presents or other means. Such assemblies are declared not to be established by the operation of the law, nor by the act of the King, though a special reference to punchayets of individual cases depending before the King or the established judges is also recognised; but it appears from various writers on Hindoo law, that the awards of punchayets were always open to an appeal, either to a superior assembly, or to the established courts of justice, over which the King was the tribunal of last resort. This mode of adjusting civil controversies by arbitration, differs not in principle from the systems generally adopted in other countries, and it is a subject of regret to ourselves and to our judicial officers, that the natives cannot be prevailed upon to have more frequent recourse to it.

34. Various reasons may be assigned for the reluctance so generally exhibited by the natives of this part of India to resort to such a mode of adjusting their differences, even when most strongly urged to do so by our public officers, whether in their official or private capacity.

35. We firmly believe, that whatever may be the defects of our judicial tribunals, the natives repose more confidence in them than in the judgment of their neighbours, or of such of their fellow countrymen as could be induced to furnish their unpaid assistance in the adjustment of disputes. The latter are not willing to sacrifice their time, without remuneration, for the benefit of their neighbours or for the public good. They know that their

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities n 1814, &c.

award will in all human probability make one of the parties their enemy, and they are too well aware of the character of their countrymen to doubt that the first mark of such enmity would generally be an accusation, whether just or unfounded, that they had given such award under the influence of partiality or corruption.

36. The rules of Regulation XXII. 1816, regarding the establishment of a subsidiary police in the chief cities and towns, provided for the appointment of chowkeedars and the assessment of the inhabitants through the agency of punchayets, consisting of the most respectable inhabitants of each mohulla; the negligence of those punchayets, and the abuses practised by them, even under the immediate eye of the magistrate, show how little is to be expected from the aid of native society in conducting the details of the simplest municipal regulation.

37. It seems indeed to us, as it has done to many of the civil officers now or formerly belonging to this establishment, who have entered upon a discussion of the punchayet system, that it has seldom been resorted to in any part of India as a means of terminating civil controversies regarding property, except in times and places where the government had failed to provide any tolerable system for the equitable administration of justice.

38. Mr. Fullerton has expressed his full persuasion that the real advantage of the punchayet mode of administering justice was, that at the time it prevailed, there existed no other, and that if a man had no punchayet to settle his cause, he obtained no settlement at all.

39. Mr. Macsween, the judge and magistrate of Agrah, in a Report dated the 5th June last, has described the administration of civil justice, and the operation of the punchayet system in pergunnah Goberdhun, in the following terms:

"As to civil justice, it was not uncommon for a plaintiff to pay money to a foujdar to induce him to support a claim, which was usually done by sending armed men to enforce payment, without any inquiry; applications which were favourably received by the rajah were similarly enforced. Many questions of marriage, inheritance, caste, claims to land, &c. &c. were referred to punchayets, which here, as elsewhere, were corrupt and prejudiced. Questions were referred to them, because each party hoped by some corrupt means to gain the cause; not from any confidence in the honesty of the punchayet, or in the justice of the cause. Armed men were not unfrequently assembled to support each party, and the meeting occasionally terminated in a serious affray, instead of a decision of the disputed rights."

40. Your honourable Court are aware that Goberdhun is a place held in peculiar sanctity by the Hindoo; its population is almost exclusively composed of Hindoos, and those chiefly brahmins, rajpoots and jauts; and it has been for a considerable period subject to the administration of the Hindoo government of Bhurtpore.

41. The province of Bundlecund also is one in which the Hindoo usages had been less affected by foreign rule than most other parts of Hindoostan. The system of punchayet, as it existed in Bundlecund, is thus described by the late Mr. Wauchope:

"With respect to the system alluded to in the 45th paragraph of the honourable Court's Letter for the settlement of disputes by punchayte, under the superintendence of mocuddums or heads of the villages, I do not find that any established system of that nature ever had existence in this province. It is true that punchayte or arbitration was very generally resorted to for the settlement of disputes of all kinds under the former government; but when we come to examine the manner in which those settlements were conducted and their awards executed, we shall find little to regret from the disuse of the system, or rather from its improved existence (for it still prevails) under our government.

"Under the former government of this district, the superintendence or management of punchaytes was never, from the earliest times that I have been able to trace, confined to any particular individuals or body of men whatever; and the consequence was, that they were very often either futile in their results, or terminated in a murderous conflict between the parties and their adherents. The selection of the arbitrators proceeded always from the disputants themselves, and they were chosen, generally, from the most respectable of the tribe or profession to which the parties belonged. If the subject was rent, the head zemindars or canoongoes were generally chosen, but residents of neighbouring villages were commonly preferred to their own townsmen. Boundary disputes were settled in the same way; and a large assemblage of men from all the surrounding villages were often invited by the parties to witness the settlement. This almost invariably led to violent affrays, and the loss of many lives, and which again branched out into innumerable feuds, laying the foundation of continued future disorder and bloodshed. The officers of the former government seldom interfered, until matters got to such extremes as to endanger the realization of their revenue, which was the primary, I may say the only object of their care, they then interposed their influence to bring about a final adjustment of the dispute. But in proportion as the former government was more indifferent to the peace of society, and to the security of individual rights, and less capable of maintaining them than the present government is, in the same proportion will the general condition of the people be found to be ameliorated by the effects of our system of management. Numerous as are the evils and inconveniences incidental to our present judicial administration, it is quite fallacious to suppose that the body of the people were happier under their own system of settling their disputes,

disputes, or that their interests will ever be promoted by any system which tends to augment the responsibility of native agents, or to separate that responsibility from European superintendence. Until a principle of public virtue, regard to truth, and liberal and enlarged notions take the place of the opposite vices which now characterize the generality of all natives, we must in vain look for the correct discharge of any trust by native agency not under the immediate and active superintendence of European authority."

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(1.) Letter from the *Bengal* Government, 22 Feb. 1827.

"As the disputes connected with land and its produce were generally settled by punchayets composed of zemindars or canoongoes, (the putwarry was never admitted to the punch further than to record the proceedings,) so were the claims and accounts of bankers settled by arbitrators, consisting of the most respectable of that profession; and the same obtained with other professions; but the habits of those classes being more peaceable than those of the zemindars, the greatest evil arising from the inefficacy of the system with respect to them, lay in the frequent futility of the award, from inability to enforce it. Dhurna was the principal resource for recovering debts in the absence of any regular tribunal to try and enforce their claims."

42. The following is an extract from a letter from the Delhi Commissioner, recorded on the proceedings noted in the margin:

Criminal Cons. 15 Sept. 1825, No. 6.

"The Board are not aware that any description of persons resident in the Delhi territory can come under the denomination of heads of caste. The principal assistants (the Board remark) are in the habit of submitting boundary and other disputes to the arbitration of a certain number of persons usually named by the litigants, but it seldom happens that by such means disputes are permanently adjusted, partly from the want of confidence which one native has in the discernment and just motives of another, and partly because they generally place greater reliance in the *justice of the European officers*."

43. We add in this place the following extract from a letter from the Government of Bombay, addressed to your honourable Court, dated the 31st May 1826; paragraph 8: "The fact represented by the collector of Poonah, that punchayets are less resorted to than formerly, deserves attention. This, which appears to be the case elsewhere, as well as the great increase of the demand for justice, we are disposed to attribute in a great measure to the improved system of administration, by which it is brought near every man's home, and is of speedier operation."

44. In a letter from the resident at Nagpore, dated the 16th December 1826, para. 44, Mr. Jenkins has remarked, "that the experience of seven years in the principal city court has fully established the inefficiency of punchayets, when chosen by the parties themselves, as instruments for dispensing justice with either impartiality or celerity. It was found that the members of the punchayets usually considered themselves and acted as the partisans of the party by whom they were chosen; in numerous cases it was found impossible to get them to come to any decision at all, the adherents on one side positively refusing to concur in a decision adverse to the interests of the person by whom they were elected, so that there remained to the court only the alternative of confirming the award of the other three members, two of whom had been chosen by the other party, and the other appointed by the court, or of itself taking up the cause and trying it *de novo*. In other cases, where a direct refusal to join in the award was not offered, still the ends of public justice were greatly obstructed by the endless delays and shifts of the members chosen by the party who could not hope to obtain a decision in his own favour, and who therefore only aimed at preventing one being come to at all. Much embarrassment also was constantly occasioned by frequent references to the court on points, the determination of which involved an investigation of the whole matter in dispute, but without which the punchayet objected to going on with its proceedings. To obviate these evils, many and repeated attempts were made, but they were attended with but partial and temporary success, or with utter failure.

45. The system now established at Nagpore with regard to punchayets, as described in Mr. Jenkins' report, does not appear to us likely to succeed better than that above condemned.

46. It is in fact merely a compulsory reference of difficult cases to individuals, who are previously summoned to attend the court, and who are aided by the native officers of the court.

47. On our proceedings of the 25th May last, your honourable Court will find recorded a letter from Mr. Wilder, the civil commissioner in the Saugor and Nerbudda territories, forwarding reports from the several assistants in charge of districts under his authority, on the subject of the administration of civil and criminal justice, and of the police of those territories.

48. Your honourable Court are aware that our code of regulations has not been extended to those territories, and that it has been our object to maintain in vigour such of the native institutions as could be rendered available for the objects of good government, and more especially to encourage a resort to punchayets in all practicable cases.

49. The several assistants employed under the civil commissioners have explained the nature of the cases which they are in the habit of referring to punchayets, the mode of assembling them, and the character of their proceedings.

50. There is some difference in the practice observed in these respects by the several assistants, as well as in the opinions they entertain of the efficiency of the punchayets in facilitating the administration of justice.

51. They are generally, however, favourable to the institution, and although it does not appear to have been found safe or expedient to refer any criminal cases to the punchayet, they have been very generally employed, when both parties have agreed, in the investigation of questions relating to marriage and inheritance, to local usages and customs, and of disputes involving an adjustment of intricate accounts.

52. Mr. Stirling, the assistant in charge of Saugor, observes, that petty affrays and disputes regarding boundaries are constantly referred to punchayets, but that the intrigues of both parties frequently protract the decision; and at the commencement of each season an affray may be anticipated, unless some preventive measure is adopted.

53. Captain Hardy, the assistant at Huttee, observes, that "no criminal cases, however petty, which if proved would call for punishment, have been referred by me for examination or for decision to any of the native officers of the court, or to individual referees; and for the administration of criminal justice, I have not in any instance had recourse to a punchayet; but in cases of complaint evidently frivolous and not requiring any serious notice, as one member of a family having been struck by another, or the same occurrence between two inhabitants of the same village, or verbal disputes with abusive language amongst the lower orders, I have been in the habit of referring without any written notice, by a verbal message, to the head man of the village where the parties reside, or to the head of the caste or trade to which they belong, or to the tehsildar, directing him to settle the business according to their own usage; and as such complaints are generally made in a moment of irritation, they are easily and quickly decided by him, in a manner which appears to give entire satisfaction.

"The manner in which punchayets are in general appointed is, for each party, in my presence, to name two members, and to agree in the choice of a sirpunje; and if, as sometimes happens, they cannot agree on this last point, the president is named by me; the parties execute in court a written engagement to abide by the decision of the punchayet, who again, I believe, take another similar one previously to commencing their proceedings.

"The manner in which their proceedings are conducted does not differ from that in use in the other parts of this country, and I require from them either that their decision should be unanimous, or that the grounds of dissent should be fully stated, when I form my own opinion, and either confirm the decision of the majority or order a fresh punchayet, or take the judgment of the case into my own hands, as appears most likely to advance substantial justice."

54. In noticing the advantages and disadvantages of the system, Captain Hardy further remarks, that the disadvantages appear to be the great delay which in general takes place before the punchayets make their award, and the consequent accumulation of suits on the file; the difficulty of quickening the proceedings of courts where the members are not paid, and where the performance of the duty at all is optional with them; the inconvenient frequency of the employment of the few men able and willing to undertake the duty, who live at or near the sudder station, and where the duty is for the most part performed by a limited number; the liability of individuals of this number to become subject to the calumnies and enmity of disappointed suitors, of which instances had been brought to his notice equally vexatious to respectable people, and difficult to suppress. Captain Hardy proceeds as follows: "I have found the assistance of punchayets of the greatest utility, and should always wish to refer to them a great number of cases, especially those relating to caste or family, and those which require the examination of shop books or muhajunee accounts. In either of these kinds of cases the members would be from the same class as the parties; and besides the advantage of previous habits and knowledge, they have leisure for the examination of intricate accounts, which from the variety of his duties the assistant can seldom have.

"I think, however, that the employment of punchayets should not be resorted to in ordinary cases, which can be decided equally well or better by the assistant after the examination of evidence; because from their constitution they are necessarily slow; a frequent call on them for the performance of a voluntary and unpaid duty would be found inconvenient to the members, and making it too common would render the character of those courts less respected, and would produce by degrees carelessness and inefficiency."

55. Captain Lowe, the assistant in charge of Baitool, after explaining the form and nature of the proceedings of punchayets, observes: "I must however state, that I have not found among any description of people that confidence in, and partiality for punchayets, which all my previous information had led me to expect. On the contrary, there is hardly a question of any kind arising among any description of people, which the parties do not generally prefer having decided by myself; even in cases of expulsion from caste and breaches of contract of marriage between children in consequence of some alleged falling off from the purity of caste in their parents or relations, (questions which it would naturally be supposed punchayets are best able to determine, and to which I always refer them if the parties are willing,) the people seem generally best satisfied when I decide them myself, on hearing the testimony of a few of the most respectable of their own caste.

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Appendix, No. 2.

(1.) Letter from the *Bengal* Government, 22 Feb. 1827.

"The questions which I am chiefly in the habit of referring to the punchayets are those in which there are disputed village and other accounts, in which it is exceedingly difficult to determine the degree of credit due to those produced by each party; and also claims of debt of long standing, in which the payment of the whole, with interest, being impossible, there is a hope that some compromise may be effected; but generally all cases in which there appears any chance of my getting at the truth, I reserve for my own decision."

56. From the foregoing quotations, your honourable Court will perceive that the punchayet as it exists in the Saugor and Nerbudda territories, is not a fixed local tribunal, but a system of simple arbitration agreed to by the parties, and encouraged by our European officers.

57. In this form, it is doubtless productive of advantage, and the disposition to agree to a reference to arbitration should be carefully cherished, though we apprehend it will not be permanent, or long available, as an efficient means of adjusting civil controversies regarding real or personal property.

58. Your honourable Court will observe the reluctance generally felt by our European officers, to allow any charges of a criminal nature to be referred to punchayets or heads of villages, and we think the reluctance a natural and proper one.

59. In several trials for heinous crimes perpetrated within the Saugor and Nerbudda territories, which have been lately submitted for the revision of the Supreme Government, we have seen instances in which heads of villages and village assemblies have pronounced sentences of death, and have caused them to be carried into effect against individuals, in one case against a whole family on the charge of witchcraft and sorcery. Village courts of the same description existed formerly in Ramghur. The principal people in the neighbourhood formed a deliberative assembly, tried, condemned to death, and enforced its sentence on those convicted of witchcraft. It is needless to say that immediate measures were in both instances adopted to repress such practices.

60. Sir Henry Strachey gives a similar instance of a case which was tried by him at Allahabad, and states, that in most cases of this sort the members of the village courts united in their own persons the characters of prosecutor, magistrate, judge, jury and executioner.

61. We have adverted to these facts, and many more might be adduced as tending to show that the punchayet or village assembly, viewed as a fixed tribunal for the administration of civil and criminal justice, is the institution of rude and barbarous tribes, rather than of countries with a dense population, and in which trade, commerce, agriculture and consequent opulence are already widely diffused, and are progressively extending themselves under the protection of a regular and mild government.

62. But whatever opinions may be entertained on the utility of punchayet, as a means for facilitating the satisfactory settlement of civil controversies regarding real or personal property, where the institution is found to exist; we apprehend that it was not in the contemplation of your honourable Court that it should be established in those tracts of our dominions where it had not existed, or where, though it may have existed at some distant period, it had been long disused and forgotten.

63. Such, we have no hesitation in saying, is the case throughout almost every part of the territories subject to the ordinary regulations of this Presidency.

64. We would refer your honourable Court to the answers of the respectable civil servants in England to your interrogatories circulated in 1813, who have almost without exception avowed their ignorance of the practical existence of such an institution as a court for the settlement of civil disputes regarding real and personal property. To introduce them now would be to introduce a system unknown to the inhabitants, and very ill calculated to conciliate their regard or their confidence.

65. In the foregoing remarks we have referred to the punchayet as a court or tribunal for the settlement of claims to real or personal property. As an institution for regulating questions of caste and of religious discipline, of alleged breaches of the conventional rules or bye-laws (if they may be so termed) of trades, professions, societies or classes of people united for civil or religious purposes, we consider the punchayet to be highly useful. Such punchayets, aided by the heads of professions, &c. exercise a species of jurisdiction for which our tribunals are peculiarly ill qualified, and it is highly important that the jurisdiction should remain as long as possible in those hands in which it is placed by the voluntary acquiescence of the parties most deeply interested.

66. The instances in which this kind of jurisdiction has been objected to, or its awards brought into question before our regular courts, are very rare. The jurisdiction relates to matters which the parties would be generally averse to bring under the cognizance of our public courts; and the awards can be carried into effect by those who pass them without other aid, inasmuch as they are sanctioned by the general voice and authority of the members of the caste or brotherhood.

67. But the attempt on our part to regulate the authority and proceedings of such punchayets, or even to recognize them by any formal legislative enactment, would, we fear, destroy their efficiency, and lead to their being abused and ultimately abandoned. Our judicial authorities are aware that these punchayets are the proper tribunals for the satisfactory

adjudication of the class of cases which come under their ordinary cognizance, and are sensible that all interference with their awards and proceedings should be studiously avoided, except in very rare instances, where they may involve serious and extensive combinations affecting the public tranquillity.

68. It will be our object to encourage this feeling on every proper opportunity, and to repress any indication of a contrary tendency which may come to our knowledge. It is equally our wish and that of our judicial functionaries (interested as the latter are in the adoption of all proper means of reducing the arrear of business) to encourage a resort to arbitration in cases depending before them. The frequent efforts of our public officers to effect this object, not less by urgent recommendations in open cutcherry than by private advice and influence, are, we regret to state, very rarely successful. Some instances have occurred in which the attempt has been carried so far (amounting almost to compulsion) as to subject the public officer, though avowedly actuated by the most upright and honourable motives, to official animadversion; and we are persuaded that the reluctance of the natives, as well to submit their cases to arbitration as to act as arbitrators themselves, will preclude us from obtaining any material relief in the administration of civil justice by the use of punchayets as a court of arbitration to be voluntarily resorted to.

69. With this impression, we should view the system adopted at Madras, by which the heads of villages and district moonsiffs are empowered to enforce by fine and imprisonment the compulsory attendance of the native inhabitants of their villages or districts, to act as punchayets for the decision of civil claims, as likely to excite dissatisfaction, and to be open to great abuse.

70. The punchayet, unless an entire change should be effected in the present feelings of the inhabitants of this part of India, must, if assembled at all, be generally assembled by compulsion; bribes would be given to avoid the obnoxious duty: and the delegation of the proposed power, especially to the heads of villages, would in practice be the delegation of a power which would most undoubtedly be perverted to purposes of tyranny and extortion.

71. The measure, though adopted at Madras under circumstances infinitely more favourable, appears to have rendered no essential aid in the administration of justice; the number of controversies settled by the village and district punchayets in those territories bearing a very small proportion to the whole number decided by the judicial tribunals.

72. We are on the foregoing grounds decidedly adverse to the introduction, as a formal and legalized part of our judicial system for the administration of civil justice at this Presidency, of the village and district punchayet institutions established in the provinces under Fort St. George. The Sudder Dewanny Adawlut, the Board of Commissioners in the Western Provinces, and almost without exception all the public officers who have been consulted on the subject, have expressed a similar opinion; and we would submit to your honourable Court, that the object which you propose of facilitating the adjustment of civil disputes by punchayets, will be best obtained by permitting the natives to adhere to the customary mode of assembling and conducting them, in all instances in which they may voluntarily desire to submit their cases to that mode of arbitration, and by restricting the interposition of the established courts to cases in which their aid may be applied for.

73. Although we have expressed opinions adverse to the two first measures specifically recommended by your honourable Court, viz. the employment of heads of villages, and of a regularly organized system of village and district punchayets in the administration of civil justice, we are not the less sensible of the absolute necessity of the extensive employment of the agency of natives in conducting this most important branch of internal regulation.

74. Our European judicial officers are, comparatively speaking, few in number; and deprived as our Zillah judges have in too many instances been for some years past, of the aid of a registrar and assistant, their utmost exertions have been unequal to the despatch of the business devolving upon them under the regulations in force.

75. The local extent of the jurisdiction vested in the Zillah courts at Madras and Bombay is, we have reason to think, generally smaller than at this Presidency. The population also is less numerous, and may be computed in some instances at one half the amount.

76. The extent of cultivation, of trade and general opulence is at least in an equal proportion. We have no hesitation in saying, that the control of one man, however zealous and intelligent in the exercise of the duties expected to be discharged by the judge and magistrate of our Zillahs, extensive and populous as they are, must necessarily be imperfect: and that if the state of the finances, and of the civil service, admitted of such a measure, the efficiency of the civil administration of the country would be vastly augmented by a large increase in the number of local jurisdictions, and of the officers exercising the functions of judge and magistrate.

77. Such an arrangement appears to have been contemplated by Lord Cornwallis as highly desirable, whenever the state of the finances might admit of it. The extent and population of each district was even then acknowledged to be too large; and the measure has become more essential in proportion to the increase which has since taken place in the cultivation of the country, and the number of its inhabitants. It is unnecessary that we should enter into any details to prove that this increase has been extremely great since the establishment

establishment of the permanent settlement in the Lower Provinces, and the date of the acquisition by the British Government of the Ceded and Conquered Provinces: the fact is notorious, and has long been so to those whose local information has given them the best means of judging. We have alluded to it here because we apprehend that it has not been sufficiently adverted to by those who have drawn inferences unfavourable to the system of internal administration of these provinces, from the failure of our judicial officers to accomplish all which that system requires them to perform. In another part of this Despatch, we shall advert to the means which would, in our judgment, render the services of the European judicial functionaries more efficacious, without increasing the number of zillahs, or of the judicial officers which the regulations suppose to be employed in conducting the judicial administration of each district.

Appendix, No. 2. (1.) Letter from the *Bengal* Government, 22 Feb. 1827.

78. Of the native functionaries now employed in the administration of civil justice, there are two classes, the sudder aumeens and moonsiffs. By Regulation XXIII. 1814, which was passed just at the period when your honourable Court's Despatch was written, the several rules which had from time to time been previously enacted regarding the duties of those officers, were revised, amended and consolidated in one regulation.

79. The powers heretofore granted to the moonsiffs to act as arbitrators having been found practically useless, were discontinued. The number was increased, so as to correspond with that of the police thannahs; that is, the local extent of their jurisdictions was so arranged, that the most distant villages should not generally be more remote than five coss from the moonsiff's cutcherry.

80. They were vested with original jurisdiction, to enable parties who were before under the necessity of filing their suits at the sudder station of the district, to institute them at a tribunal in the vicinity of their own places of residence. The judges were directed to be careful in the selection of fit persons for the office, and were enjoined to give a preference, when duly qualified, to the pergunnah cauzees, the only permanent native officers in the interior of the country remaining under the institutions of the preceding government.

81. The processes and proceedings of the moonsiffs' courts were carefully defined. The parties were encouraged to employ their own relatives, servants or dependants, rather than vakeels, in the conduct of their causes. The powers of the moonsiffs were extended so as to admit of their trying suits to a somewhat larger amount than before, and the judges were empowered to employ them in the discharge of various miscellaneous duties connected with the local administration of civil justice. These arrangements were calculated to augment their emoluments, to add to the efficiency and respectability of their offices, to render justice more easily accessible to the great body of the people, and to diminish the pressure of civil business before our European tribunals.

82. These principles have been since extended by Regulation II. 1821, both by increasing the value or amount of suits cognizable by the moonsiffs from 64 to 150 rupees; and by permitting them to try suits, the cause of action in which may have arisen within three years (instead of one year) previously to their institution. It was at the same time explained, that claims for arrears of rent were cognizable in the moonsiff's court; and the Zillah judges were enjoined to encourage that mode of procedure. The provincial courts were, by the same regulation, empowered to increase the number of moonsiffs to such extent as might appear necessary beyond the proportion of one moonsiff in each thannah jurisdiction.

83. The present constitution of the office of moonsiff is chiefly defective, because the amount of their emoluments fluctuates according to the number and nature of the suits decided by them. In some districts their allowances are now such as to form a fair and reasonable compensation for the zealous services of well qualified and respectable men; in others they are so small as to afford no adequate inducement to respectable individuals to undertake the duty; nor can it be a matter of surprise that instances of corruption and abuse should but too frequently occur in a numerous body of public officers, whose fair emoluments are so disproportionate to the responsibility and powers which are vested in them. We entirely concur in the sentiments expressed by the Sudder Dewanny Adawlut on this subject, and in the conclusion they have drawn, "that no reformation of the present system will be effectual without providing a remedy for this radical defect."

Par. 44 to 49 of their Report.

84. Under this impression, we have recently furnished instructions to the court of Sudder Dewanny Adawlut, and on the receipt of their reply we shall be prepared, under the sanction conveyed in the 59th paragraph of your honourable Court's Despatch, to determine the best mode of accomplishing the object above referred to.

85. Our present impression is, that it will be desirable to substitute a fixed salary in lieu of the fees which now constitute the compensation paid to moonsiffs; that such salary should in no case be less than 50 rupees per mensem; and that a certain proportion of the moonsiffs in each district, say one-fourth or a fifth of the whole, should be entitled to a larger allowance as the reward for long services, and for the honest and correct discharge of their duties. The hope of attaining the higher allowance might operate as a stimulus to zeal and good conduct, which might be still further encouraged by promoting, from time to time, the most intelligent and respectable of the moonsiffs to the office of sudder aumeen.

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86. We see no reason why the powers and emoluments, as well as the number of this class of officers, should not hereafter be gradually increased in proportion to the confidence which they may be found to merit, and to the demands for justice in each district; and we are persuaded, that the established system of local moonsiffs, or native commissioners, while it possesses the chief advantages of the proposed village tribunals, is free from many of the defects necessarily inherent in the latter, is capable of being gradually extended and improved so as to meet every essential object of public utility, and as it has now become familiarized to the people, is preferable to a novel system, which, as being altogether unknown to or long disused by the natives, would be repugnant to their feelings and habits, and would weaken their general confidence in the stability of existing institutions.

87. The principles of gradual improvement above referred to have been recently applied with great success to the establishment of sudder aumeens.

88. By Regulation II. 1821, and Regulation XIII. 1824, the Sudder Dewanny Adawlut have been authorized to invest sudder aumeens, whose character and capacity may be favourably reported upon by the zillah judges, with power to try and decide original suits, not exceeding in value or amount 500 rupees. One or more sudder aumeens may be appointed to hold their cutcherries at places where a register and joint magistrate may be stationed at a distance from a zillah and city court. The sudder aumeens have been authorized, subject to the control of the judge, to execute their own decrees and those of the moonsiffs. They are now paid by a fixed salary in lieu of fees. The amount of their salary, it is true, is less liberal than we think desirable; but in the degree in which it exceeds the amount formerly received by them, it tends to secure the services of abler men, and the more zealous and upright discharge of their duties.

89. A sudder aumeen being the Hindoo or Mahomedan law officer of the court, or the cauzee of the town or city, receives in addition to his fixed allowances in that capacity the sum of 100 rupees per mensem, and 30 rupees for his establishment.

90. Other sudder aumeens, vested with authority to try suits to the amount of 500 rupees, receive a salary of 140 rupees per mensem, besides an allowance for establishment: and the remainder receive a salary of 100 rupees, with a similar allowance for charges.

91. We shall, in a subsequent part of this letter, advert to the aid which these officers are now enabled to render to the magistrates, by investigating and deciding petty offences and misdemeanors, and shall merely observe, that we have every reason to believe that the confidence of the native community, as well as of our own judicial officers, with regard to the proceedings of the sudder aumeens, is daily increasing, and that they form a class of officers on whom may gradually be conferred a still larger share in the administration of civil and criminal justice, with proportionate benefit to the public interests.

92. This question, as well as that of improving the situation of moonsiff, is now under the consideration of the Sudder Dewanny Adawlut, and will be hereafter adverted to when we reply to the instructions contained in your honourable Court's Despatch of the 23d July 1824, paragraph 9 to 14.

93. We proceed to notice such of the suggestions of your honourable Court, connected with civil justice and included under the second head, as relate to the limitation of the right of appeal; the simplification and abbreviation of the forms, processes and proceedings of our established courts; the reduction of law expenses; the improvement of the office of pleader; and the institution of a new court of Sudder Dewanny Adawlut in the Western Provinces.

Paragraph 64.

94. With regard to the limitation of appeals, we concur with the court of Sudder Dewanny Adawlut, in opinion that no class of our native officers should be vested with powers of final adjudication; more especially on original suits, and where the tribunal is situated at a distance from the station of the zillah or city court. If such powers were vested in the moonsiffs, or even in the sudder aumeens, the chief security we possess for the equity and uprightness of their proceedings would be abandoned; the suitors would consider such a measure as a virtual denial of justice, and our tribunals would cease to command the confidence and good opinion of the community. Whether this restraint may at some future period be safely relaxed or entirely dispensed with, will depend on the change which may be effected in the moral character of the natives; but we are forced to avow our conviction that the final decision of civil controversies cannot yet be left to our native judges without the certainty of a very general and great abuse of such a power.

Sect. 8, Reg. XXIV.; Sect. 3, Reg. XXV.; Sect. 2, Reg. XXVI.; 1814.

95. The principle upon which the right of appeal was regulated by the rules enacted in 1814, was, that the parties should have the right of appealing to a superior tribunal from the decision passed on the original suit, and that the decision passed upon such appeal should be final, except in cases in which the judgment in appeal might appear to be inconsistent with some established judicial precedent, or with some regulation in force, or with the Hindoo or Mahomedan law, or in which such judgment might involve some point of general interest or importance not before decided by the superior courts.

96. In the year 1819, the power of admitting a second or special appeal was extended, as it regarded the Sudder Dewanny Adawlut and provincial courts, to all cases in which from a perusal of the decree there might appear strong probable ground, from whatever cause, to presume a failure of justice.

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97. The judges of the Zillah courts were at the same time empowered to certify to the provincial courts, and the provincial courts to the Sudder Dewanny Adawlut, whenever, in their opinion, particular cases (though not regularly open to further appeal) were from their nature and importance such as ought to be reconsidered in a second appeal. The former of these rules however has since operated to augment the business of the superior courts to a very inconvenient degree, so much so indeed, that of the number of civil suits depending before the Sudder Dewanny Adawlut, more than one half were special appeals, and we have found it necessary to revert to the principles formerly established.

98. In the preamble to Regulation II. 1825, the grounds of this measure, as well as of the more strict limitation of the rules regarding petitions for a review of judgments, are fully explained, and we do not consider it advisable to confine the right of appeal within narrower bounds than those now established; nor has it been without regret, and a deep sense of the necessity of the measure, that we have withdrawn from the superior courts the more extensive and general authority vested in them by the second clause of section 2, Regulation IX. 1819, for the admission of special appeals.

99. The existing forms of pleading, proceeding and process, both in original suits and appeals, were revised and defined by Regulation XXVI. 1814; and we think they are now as simple and summary as is consistent with the ends of substantial justice.

100. In original suits, the fourth pleading or rejoinder is no longer necessary; and supplemental pleadings, which under the former rules might have been filed at the option of the parties, to the same extent in point of number as the regular pleadings, can now be filed only by the express permission of the court for cause shown.

101. In appeals again, there is now *no necessity* for any pleading being filed beyond that which contains the alleged reasons of appeal, and no pleading can be admitted beyond the respondent's answer to those reasons; whilst under the former rules it was necessary in all regular appeals that four separate pleadings should be filed.

102. It is further provided, that if the points at issue cannot be clearly ascertained from the pleadings, the court shall, on the day on which the suit may first be brought to a hearing (after questioning the parties so as to bring them to an issue) record such of the grounds or points at issue as may appear material for the support or defence of the suit. By this provision it was intended that every thing essential to the complete developement of the merits of the case should be recorded, and that the parties should be prevented from unnecessarily filing exhibits or summoning witnesses on points irrelevant to the real matter in dispute.

103. The character of the vakeels and of the native ministerial officers of our courts, combined with the inveterate habits of the natives who may be parties in civil controversies, render it vain to expect that original suits will be brought before our courts in a state ripe for investigation and decision at the first sitting. Our judges are, in fact, under the necessity of personally discharging many functions which in English courts of justice are performed by experienced lawyers and attorneys, and by various ministerial officers liberally rewarded, well educated, and possessed of talents and integrity, which qualify them for their respective duties.

104. Many of the rules adopted in 1814 were framed with express reference to thisnecessity, and the provisions specifically cited in the margin may be noticed as calculated to save the time of our judges, and to expedite the proceedings of our courts.

Sect. 50 to 57, Regulation XXIII. 1814; sect. 11, Regulation XXIV; sects. 6, 7, 8, 10 & 16, Regulation XXV; sects. 8, 9, 11, 13, 15 & 22, Regulation XXVI; sects. 9, 19, 20, 23, Regulation XXVII. 1814.

105. The two next points included under the second head to which your honourable Court have directed the attention of this government, are the improvement of the office of vakeel, and the reduction of law expenses.

106. With regard to these questions, we shall content ourselves with expressing our concurrence in the following views and sentiments of the Sudder Dewanny Adawlut, as explained in the 91st and 92d paragraphs of their Report, remarking, however, that as far as regards the office of vakeel, we may reasonably indulge the hope that the progress of the institutions established for the better education of natives, and the operation of the rules recently enacted in Regulation XI. 1826, will gradually supply our civil courts with pleaders better qualified for the discharge of their duties than the generality of those now employed in that capacity.

"It must be admitted that the establishment of authorized pleaders, which was instituted in the Lower Provinces by Regulation VII. 1793, has not yet fulfilled the whole of the beneficial purposes intended by it, as set forth in the preamble to that regulation. It has not been found possible to make the selection in all cases, or in general, from 'men of character and education versed in the Mahomedan or Hindoo law, and in the regulations passed by the British Government.' Nor, as far as we are able to judge from our observation, have the diligent endeavours of many of the persons appointed to qualify themselves for their situations and do justice to their employers, been such as might reasonably have been expected. Still, however, we are of opinion, that much facility is given to the administration of civil justice by their constant attendance; and that the practical knowledge which some of them have obtained of the laws and regulations, is not without its use

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as well to the judicial officers as to the parties in suits. That instances of abuse and misconduct have occurred amongst them, as intimated by the honourable Court, cannot be denied, but we have no reason to suppose such instances frequent, or that on a general view of the advantages and disadvantages arising from the employment of licensed pleaders, as now regulated, there is any sufficient reason for discontinuing them. On the contrary, we should consider the loss of them a material detriment to the established system of civil judicature, and should apprehend a recurrence of the many serious evils which preceded their institution, as enumerated in the preamble to the regulations already mentioned.

Par. 5.

"On the eighth suggestion, under the head Civil Justice, viz. 'that the expenses of a trial in the zillah and city courts be reduced, if thought too considerable;' it appears sufficient to remark, that we have no information or reason to believe that the present authorized stamp duties and fees of pleaders, as they affect the usual costs of suits in the zillah and city courts, are oppressive, or such as to discourage the prosecution of just claims. The stamp duty substituted for the institution fee by section 13, Regulation I. 1814, as well as the pleader's fee in regular suits, fixed by section 25, Regulation XXVII. 1814, must always be proportionate to the cause of action, and the payment of both may be dispensed with in cases of ascertained poverty, under the provisions of Regulation XXVIII. 1814; section 2, Regulation III. 1817, has extended to all original suits and appeals instituted in those courts for an amount or value not exceeding 64 rupees, the exemption from stamp paper for pleadings and durkhasts for witnesses or exhibits, which had been granted to suits for the same amount in the courts of the moonsiffs, by the provisions of Regulation XXIII. 1814; section 3, of the same regulation, has likewise extended to appeals from decisions of the sudder aumeens, which may be referred to the registrars, the lower rates of stamp duty payable on pleadings and durkhasts in the registrar's court, under sections 15, 16 & 17, Regulation I. 1814. And we are not aware that any of the other rules in force on the subject require modification. Some inconvenience attending the deposit of the fees of pleaders in pursuance of the first clause of section 23, Regulation XXVII. 1814, was indeed noticed in the remarks of the court on the half-yearly reports submitted to government on the 4th June last; but on consideration of the general beneficial tendency of the clause above mentioned, and that an option is given to plead in person when it may not be convenient to deposit the fee of a pleader, the court did not judge it expedient to propose an alteration of the rule for deposits as now established."

107. In the 66th paragraph of your Despatch, your honourable Court have suggested for our consideration, whether it would not be a very desirable measure, and one which could be effected at a small expense, to form a separate Sudder Dewanny Adawlut, for which two judges, a registrar and an assistant, with a proportionate native establishment, would be amply sufficient for getting through with due care and deliberation the important duties of that court. We are not certain, whether it was the intention of your honourable Court in this paragraph, to suggest that the present Sudder Dewanny and Nizamut Adawlut should be divided into two separate courts at the Presidency, one for the administration of civil justice, and the other for the administration of criminal justice; or whether you might not have had in view the establishment of another sudder court, separate from the one at the Presidency, and fixed at some convenient place in the Western Provinces.

Par. 119 to 127.

108. In their report, the court of Sudder Dewanny Adawlut have argued on the former supposition, and we have little to add to their remarks, which show the advantages and disadvantages respectively anticipated from such an arrangement, except that, in our judgment, the advantages of such a plan, supposing each court to consist of three judges, would greatly preponderate over the disadvantages; and that if the arrangement which we are now about to suggest should not meet with the concurrence of your honourable Court, we would request your authority to adopt the suggestion above alluded to for the establishment of distinct civil and criminal courts at the Presidency, under such rules as might appear most expedient.

109. The measure to which we allude, and which may perhaps have been intended by your honourable Court, is the establishment of a separate court of Sudder Dewanny Adawlut and Nizamut Adawlut in the Western provinces, vested with the same authority in the divisions of Benares and Bareilly, as is now exercised in those territories by the Sudder Dewanny Adawlut and Nizamut Adawlut at the Presidency.

Par. 18 to 41.

110. This arrangement was strongly urged by Mr. C. Smith, when second judge of the Benares court of circuit, and the subject was discussed in the proceedings of the Nizamut Adawlut under date the 24th February 1816.

Par. 100, 101 & 102.

111. The Marquess of Hastings, in his Minute on the judicial administration, dated the 2d October 1815, has also adverted to the subject in the following terms:

"Among other suggestions which have occurred to me for the benefit of those distant parts of our possessions which I have lately visited, the expediency of the establishment of a separate Sudder Dewanny Adawlut for these provinces, impressed itself forcibly on my mind. The distance from the Presidency must in itself be an obstacle almost insurmountable to an appeal from the decisions of the Bareilly provincial court, or if the appellant should possess the means of surmounting this obstacle, the distance must prove a source of great expense and hardship to the opposite party who may not possess the same means. It may also be observed, that the number of causes appealable to the Sudder Dewanny Adawlut,

Adawlut, which are instituted in these provinces, does not show the whole of the detriment suffered by the suitors in the several courts of this remote division. The maintenance of right principles and of uniformity of decision in the general administration of justice by the superintending power of the Sudder Dewanny Adawlut, through special appeals, and through interlocutory orders on petitions, is perhaps of more importance to the community than the exercise of its regular appellate jurisdiction."

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" This measure is also suggested by the judge of Etawah, who in his enumeration of the serious hardships now entailed on suitors and others seeking redress from the Sudder Dewanny Adawlut, observes, that they are subject to a journey of more than one thousand miles, to a tedious and ruinous attendance of many months in a climate inimical to a native of these provinces, and where the language, manners, customs and even food of the people are different from his own.

" The principal objection to a division of the superior court is, perhaps, that in the result there might happen to be a wide discordance in decisions, and that the uniformity of judgments, which is so important an object of every judicial administration, would be lost sight of. To this it may be replied, that nature, as well as municipal laws and local polity, have for many ages drawn a broad, distinct line between the inhabitants of Bengal and those of the Western Provinces, so that the general rules now applicable to the one are frequently found to be entirely adverse to the circumstances of the other, and that instead of tying down the population of the Western Provinces on the state bed of Procrustes which was originally made for Bengal, it might be advisable to have a local administration, with the means of observing and the power of improving the actual condition of so large and valuable a portion of the British empire."

112. In the paper of Remarks by Mr. Stuart on the existing judicial system, which was submitted to Government with a letter from the registrar of the Nizamut Adawlut, dated the 15th November 1815, the expediency of establishing in the Western Provinces a separate court of Sudder Dewanny Adawlut and Nizamut Adawlut is strongly urged.

Par. 47 to 57.

113. The measure indeed, as recommended by Mr. Stuart, was connected with other general arrangements proposed by him for the administration of the Western Provinces, but his remarks on the subject are scarcely less applicable to the judicial system as now existing, than if they were combined with the modifications of it which he has advocated.

" My final proposition is, that the division of Benares court of circuit, and provincial court of appeal, be placed under the new Sudder Dewanny Adawlut, so that this court may be relieved of the whole of the duties of that province, and of the Ceded and Conquered Territory.

" The main object of the plan being to afford real and substantial relief to this court, the degree in which it will effect that object is the first point for consideration.

" In the criminal department, the relief would be important. The total number of regular trials received by the court during the year 1814, was 541 (Appendix, No. 1.); of that number 205 (Appendix, No. 1.), which is nearly two-fifths, came from the Benares and Bareilly courts of circuit.

" In examining the state of the civil file, a very different proportion is observable. The total number of appeals depending in this court on the 31st December 1814, was 415; of this number only 22 came from the Bareilly court of appeal, and 52 from Benares; total 74, out of 415. This is somewhat more than one-sixth of the whole. (Appendix, No. 4.) A statement of appeals admitted during the last six months, (Appendix, No. 5.) exhibits, however, a higher proportion of causes from those divisions. The total number admitted from all the courts of appeal being 76, from Bareilly 4, from Benares 13, that is from Benares and Bareilly, 17, or nearly one-fourth of the whole.

" If these statements be compared with statements of the land revenue of the different territories, the result will appear very singular. The land revenue of the districts included in the Bareilly division, is sicca rupees 1,92,26,356, of the districts included in the Dacca, Calcutta, Moorshedabad and Patna divisions, 2,88,19,069; yet, as I have shown, the number of depending causes appealed from the first of these territories is only 22; while from the latter it is 341, that is fifteen to one. The land revenue of the districts under the division of Benares, is 12,25,142, the depending appeals from that division 52, more than double the number of those from the Bareilly division. (Appendix, No. 6.)

" I am sensible that the improvement which must have taken place in the Lower Provinces since the permanent settlement, renders the land revenue no certain criterion of the relative wealth and populousness of these territories. But no reasonable allowance to be made on this account, can be thought to explain the amazing disproportion between the civil business which the different territories contribute to this court. There are, indeed, other obvious causes. The great distance from this court must operate as a discouragement to appeals, more especially as the seat of the board of revenue for the new territory being on the spot, the landholders must be at the expense of a double set of agents for the management of their revenue and judicial concerns; the inhabitants not having yet fully acquired the spirit and habits of litigation, which are the sure growth of our judicial system, is unquestionably another cause.

" Still, however explained, the fact remains, and the actual relief to the Sudder Dewanny Adawlut, in its civil department, from the adoption of the plan, will be proportionably small: But the relief in this respect would notwithstanding be of no slight importance both to the

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court and the suitors, since, including the growing arrears, I compute that there would be at once transferred to the new court an arrear of about 90 appeals, while the greatest annual number ever decided by the court is only 72; the transfer would then, in the first instance, advance the court one year in this department. It would also relieve it permanently from the growing appeals from those divisions which, as noticed in paragraph 50, approached, during the half year ending with 1814, to one-fourth of the whole.

"I must at the same time remark, that the preceding calculation is grounded on the actual quantity of business arising from the Upper Provinces; if, as I think there can be no doubt, it must be expected to increase rapidly, the operation of the plan must be in the same degree beneficial.

"The plan has further to take credit for the saving of the miscellaneous business connected with Benares and the new territory. Of this business that which is judicial may be supposed to be nearly in proportion to the appeals, that is, about one-sixth of the whole; the remainder depending, like the criminal trials, more on the motions and exertions of the officers of the government than on the inclination or ability of the people, may probably bear the same proportion as the criminal trials; on which supposition, it will be more than one-third of our whole business of the same nature.

"If the data above given be at all accurate, I may venture to conclude, that the plan would remove from the court about one-third of its present burthens, and thus render it, if its business should not increase, equal to its duties. If, as I apprehend there is too much cause to anticipate, the business should increase, the necessity for relief will be still more imperious.

"I may also observe, that the plan will oppose no obstacle to any future improvements in the administration of justice which may be practicable within the jurisdiction which I propose to leave to the court."

Civil Cons. 19 Jan. 1827, No. 31—35.

114. We shall not add to the length of this Despatch by further quotations, but we beg to refer your honourable Court to the documents marked in the margin, and which are forwarded as a separate number in the packet, in explanation of the views we entertain on the question; and we will conclude this branch of the subject by soliciting the sanction of your honourable Court to a measure which, we are persuaded, will add greatly to the efficiency of the judicial administration, and be attended with extensive benefits to the country.

115. We proceed to consider the remaining suggestions of your honourable Court for the improvement of the administration of civil justice, under the third head, viz. such as relate to the transfer from the judicial to the revenue authorities of claims regarding land, rent, distraint, undue exaction and boundaries; to the improvement of the existing rules on these subjects, as well as regarding the interchange of written engagements between the landholders and the ryots.

116. In a former part of this Despatch we have adverted to the fact, that the real pressure of civil business in the courts of the Lower Provinces arises from the mass of litigation directly or indirectly connected with the rights, tenures and interests of the various classes of proprietors and occupiers of land; in detailing, therefore, to your honourable Court the rules which have been enacted with a view to relieve that pressure since the date of your honourable Court's Despatch, we propose to consider them under the following heads; viz.

1st. Those measures which have for their object the formation and preservation of an accurate record of the rights and interests of the different classes who own or occupy land, with a view to the attainment of greater facility in the adjudication of those rights by the judicial tribunals.

2dly. The rules for investing the revenue officers with the power of determining on rights of the foregoing description, including the adjustment of disputes regarding rents.

3dly. The rules under which all questions relative to the resumption of lands held free of assessment under an illegal or invalid title, are made cognizable by the revenue officers.

4thly. Such rules of a local nature as have for their object the adjustment of special matters connected with revenue administration, without adding to the business of the ordinary courts.

5thly. Rules relative to other branches of revenue unconnected with land, which have for their object to relieve the civil courts from the adjustment of cases of that nature.

First. Those measures which have for their object the formation and preservation of an accurate record of the rights and interests of the different classes who own or occupy land, with a view to the attainment of greater facility in the adjudication of those rights by the judicial tribunals.

117. The first enactment which we shall shortly notice under this head of the subject is Regulation XIX. 1814, by which all the rules before enacted for the partition of estates paying revenue to government, with such modifications and amendments as were considered expedient, were reduced into one regulation.

118. We notice the above regulation, not because new principles were at that period advanced, for in fact the grounds recited in the preamble to the first regulation * made for the partition of estates; viz. "that in dividing landed property, the share or shares should be rendered as compact as circumstances may admit, in order to obviate the disputes regarding boundaries, water and other matters which necessarily result, where the lands belonging

* Reg. XXV. 1793.

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to different estates circumscribe each other, or are intermixed, and which by obstructing the cultivation, and consequently depreciating the value of the property, are equally prejudicial to the interests of the proprietors and to those of the public," still continued to be applicable to the state of landed property; but we have alluded to the enactment as one calculated to facilitate the adjudication of claims to land devolving by inheritance to a number of shares, and because in passing it some new rules were found necessary, to give a more effectual operation to those previously in force, so that the original objects of defining the rights of sharers, and preventing injury to the resources of government, might be fully secured.

119. The re-establishment of the offices of canoongo and putwaree is a subject which has already been very amply discussed in the various communications which have been made to your honourable Court from the Revenue Department; and the orders which have at different times been received by us in reply to those communications, sufficiently evince the deep anxiety entertained by your honourable Court, that the putwaree and canoongo establishments throughout the provinces should be placed upon the most efficient footing.

120. It seems unnecessary for us, therefore, in this place to recapitulate the grounds upon which the several regulations noticed in the margin were formerly enacted, or the considerations, already very fully explained in our revenue Despatches, which led to the institution of the several mofussil record committees, and the supervising committee established at the Presidency. The general effects of the regulations above noticed, as well as the proceedings of our record committees, will be brought in a connected and detailed shape to the notice of your honourable Court, at the earliest possible period, in a separate Despatch from the Revenue Department; but we may observe, as connected with the points immediately under consideration, that although the completion of an extensive system of registration and record must be a work of much time, labour and expense, we have no doubt that even during the progress of it, the civil courts will derive some facility in the investigations and decision of claims connected with land, and the produce thereof, from the operation of the putwaree and canoongo regulations.

Regulations II. & V. 1816.
Regulations II. XII. XIII. 1817.
Regulation I. 1818.
Regulation I. 1819.

121. The period, indeed, when the accounts of the village putwary shall exhibit a satisfactory statement of the measurement, nature and produce of the land, the rents payable, and the extent of the interest vested in the several cultivators of the soil, by which the judicial or revenue authorities may safely be guided in the adjustment of disputes brought before them, must be distant; but if the endeavours to attain so desirable an object as the formation of authentic records by the putwaries and canoongoes shall ultimately be successful, and we shall finally be enabled to establish a system of registration and record, susceptible of easy reference, and connected in all its parts, from the details of a village pergunnah or other local division, to the more general and comprehensive records of the superior office at the Presidency, such a result will obviously relieve the courts of justice from the necessity of having recourse to the mass of oral and unsatisfactory testimony which has hitherto seriously contributed to retard their proceedings.

122. Some of the most important provisions which have been enacted to facilitate the administration of civil justice as connected with the rights, interests and privileges of the agricultural community, are to be found in the regulations noted in the margin.

Secondly. The rules for investing the revenue officers with the power of determining on the rights of the foregoing description, including the adjustment of disputes regarding rents. Reg. VII. 1822, for the Western Provinces Cuttack and Puttaspore. Reg. IX. 1825, for Benares and the Lower Provinces, sect. 2 & 3.

123. A particular explanation of the judicial powers in the adjustment of various questions of the foregoing description, which it was deemed expedient to entrust to the collectors of the unsettled provinces by the provisions of Regulation VII. 1822, has already been submitted to your honourable Court in our Despatches from the Revenue Department, of the dates noted in the margin. In the first of the despatches alluded to, it was especially stated that a great number of the disputes which it was anticipated the collectors might adjust, related to questions scarcely worth contest, and might be easily settled by the timely intervention of authority; and a belief was then expressed, that in the unsettled provinces the orders which might be passed in such matters by the collectors, under the powers vested in them, would generally be acquiesced in, if passed after full and fair inquiry.

1 Aug. 1822, par. 27 to 31.
30 July 1823, par. 3 to 19.

124. The proceedings of collectors in several of the detailed settlements, under the provisions of Regulation VII. 1822, which have fallen under our notice, appear to have been conducted in such a manner as to lead us to think that the above expectation as to the good effects which would arise from the exercise of the judicial powers confided to them, has not been disappointed; we have, indeed, no doubt whatever, that a great number of disputes of various descriptions relative to irrigation, boundaries, crops and local rights connected with land, have been adjusted under the operation of that regulation, which would otherwise have been added to the files of the ordinary courts; and frequent instances have fallen under our notice wherein the allowances which ancient custom had assigned to the bullaheer, or village watchman, and others who may be called the servants of the village community, have been ascertained and recorded.

125. The provisions of Regulation VII. 1822, except such as were exclusively of a local nature, have since been extended to all lands (including jaghires, moccurreries, and other tenures held free of assessment, or at a quit-rent under special grant), not included within

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the limits of estates permanently settled, as well as to all estates held khas, while so managed; and to the Sunderbunds, the hill lands of Bhaugulpore, and all other wastes not specifically included within pergunnahs, mouzas, or other revenue divisions specified at the time of the settlement as belonging to the mehals then permanently assessed. This extension, as well as the competency of the Governor-general in Council to vest any collector within the provinces of Bengal, Behar, Orissa and Benares, with the several powers specified in section 20, Regulation VII. 1822, have been declared by the second and third sections of Regulation IX. 1825; and although the sphere of its operation is necessarily much more limited than that of Regulation VII. 1822, in the unsettled provinces, we nevertheless anticipate much good, and considerable relief to the judicial tribunals, from the exercise of the powers thus proposed to be intrusted to such of our collectors in the settled districts as may possess the leisure as well as the ability and judgment necessary to a discreet and efficient discharge of such duties.

126. It is foreign, however, to the immediate object of this address to enter into any detail of the grounds on which that enactment was passed, as a detailed explanation of them belongs more particularly to the Revenue Department, and will be brought to the special notice of your honourable Court in the general narrative of our revenue proceedings.

127. We have next to notice to your honourable Court, that the provisions of the regulations heretofore enacted for the adjustment, by the revenue officers, of disputes relating to arrears and exactions of rent between landholders or farmers and their under-tenants, having been found insufficient to expedite the trial and decision of such cases, a new regulation, containing such modification of the former rules as might lead to the more speedy adjudication of such cases by the revenue officers, was proposed by the court of Sudder Dewanny Adawlut, and has been passed by us, standing on the code as Regulation XIV. 1824.

Civil Cons. L. P. 22 July 1824, Nos. 11 to 14.

128. The provisions of the above regulation, as well as our proceedings of the date noted in the margin, have already been brought under the notice of your honourable Court in our Despatch of the 14th September 1826, paragraphs 70 to 78. On that occasion, indeed, we stated to your honourable Court that our expectations as to the extent to which that regulation would operate in affording material aid to the judicial authorities were very limited. If, however, it shall be found that those rules have had the effect of expediting the trial and decision of summary suits, such an effect must in some degree tend to lighten the labours of our civil judges; and if it appears, on further experience, that the operation of the enactment has been less extensive than was anticipated by the court of Sudder Dewanny Adawlut, we shall be prepared for the adoption of the proposition of referring such cases for the decision of the sudder aumeens, contained in the Minute of Mr. Harington, then officiating chief judge of the court, or of such other rules as may appear to us best calculated to expedite the adjustment of such suits.

129. It may not be out of place here to notice to your honourable Court some other regulations enacted since the receipt of your Despatch now under reply, which have for their object the correction of various irregularities, arising out of the practice of realizing arrears of revenue due to government, as well as the rents of sudder malgoozars, by the process of public sale, and of correcting erroneous opinions as to the effect which such sales were supposed to have upon under-tenures.

Reg. VIII. 1819. I. 1820. XI. 1822.

130. The regulations we allude to are those noted in the margin: the circumstances which led to the enactment of the two first-mentioned regulations were fully detailed to your honourable Court in our Despatch from this department under date the 3d November 1820, paragraphs 28, and 63 to 72, in reply to which we had the honour to receive the orders conveyed to us in your honourable Court's Despatch of the 13th April 1825, pars. 2 to 9, on the receipt of which your honourable Court will perceive, by referring to the resolution recorded on our proceedings of the annexed date, we directed that the judges of the provincial court of Calcutta, and of the several Zillahs in that division in which the putnee tenure chiefly prevailed, should be called upon through the court of Sudder Dewanny Adawlut to furnish the information required by the 9th paragraph of your honourable Court's Despatch above mentioned. The court of Sudder Dewanny Adawlut were at the same time requested to state their own sentiments in regard to the effects which had been produced by the operation of the regulations alluded to. A similar report was required through the territorial department from the board of revenue, and the several collectors of the districts above adverted to.

Civil Cons. 11 Aug. 1825, Nos 4 and 5.

Civil Cons. 19 Oct. 1826, Nos. 5 to 11, L. P.

131. For a detail of the information received by us under the foregoing orders, we beg permission to refer your honourable Court to our proceedings of the annexed date, from which you will perceive that the authorities who have been consulted concur generally in opinion that very beneficial effects have been experienced throughout the districts immediately affected by the operation of Regulation VIII. 1819. From the reports of the local officers, there appears strong reason to believe that the rules in question have tended to settle and give stability to the landed tenures in those districts; and that this result has been effected without entailing (as apprehended by your honourable Court) additional evils on the cultivators of the soil; some of the local officers, indeed, appear to be of opinion that this class of your subjects have rather been benefited than injured by the operation of that law; the provisions of the 18th and 19th sections of which have been extended to all the provinces under this Presidency by section 22, Regulation VII. 1822.

132. The

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(1.) Letter from the *Bengal* Government, 22 Feb. 1827.

132. The most important part of our proceedings above referred to relates to the best means of securing to the ryots their just rights and privileges, a measure which has occupied our most anxious attention, and regarding which we propose to enter on a more detailed consideration, as noticed in a preceding part of this Despatch, on receiving the reports which have been called for from the revenue boards as well as from the court of Sudder Dewanny Adawlut. The observations which we have here offered are intended merely to convey to your honourable Court our impression that the operation of Regulation VIII. 1819, has had a tendency to reduce the extent of litigation in the districts more immediately affected by it.

133. The reasons which induced us to pass Regulation XI. 1822, have been already submitted to your honourable Court; and in paragraphs 33 to 36 of our Despatch from the Revenue Department under date the 30th July 1823, it was specifically noticed to your honourable Court that "sales of land for arrears of revenue had been a fertile source of litigation, the regulations containing no specification of the conditions necessary to the validity of such sales; and the decisions of the adawluts, to whom no distinct cognizance of such cases is given by the rules of 1793, being nearly as various as the persons who presided in them. On the one hand, much real injury has remained unremedied, and on the other, sales have frequently been avoided on insignificant points of mere form, though the general propriety of the measure, and the contumacy or fraud of defaulters have been fully established."

134. The most serious evils which had arisen from the abuse of the process of public sales for the recovery of arrears, have been noticed to your honourable Court in the detail of our proceedings which led to the enactments of Regulation I. 1821, and the institution of the mofussil and the sudder special commissions; that enactment will more properly be referred to in noticing the rules, the operation of which is confined to particular districts; but, independent of cases falling within the provisions of that enactment, your honourable Court will find, in the detailed reports and statements which have been annually furnished to us by the superintendent and remembrancer of legal affairs, and which are recorded in our proceedings of the annexed dates, ample proofs of the numerous cases connected with sales which have occupied the attention of our civil courts. The evils too can hardly have been confined to the cases detailed in those reports and statements; for it cannot be doubted that numerous disputes between landholders, farmers and under-tenants must have been created by the change of possession, first obtained by the auction purchaser, and subsequently restored under a decree of court to the former malgoozar.

Rev. Cons. 10 Oct. 1822, No. 21, L. P., W. P.
— 10 July 1823, No. 10, L. P.
— 14 Aug. 1823, No. 42, W. P.
— 9 July 1824, No. 22, L. P.
— 24 Sept. 1824, No. 74, W. P.
— 10 Nov. 1825, Nos. 7 to 11. L. P.
— 10 Nov. 1825, Nos. 13 to 15, W. P.
— 9 Nov. 1826, Nos. 23 to 26, L. P.
— 9 Nov. 1826, Nos. 27 to 30, W. P.

135. We conceive that the provisions of Regulation XI. 1822, for defining more clearly and specifically the rules to be observed in conducting sales, and vesting the revenue authorities with the power of rectifying any errors which may have been committed at the time of sale, must tend materially to obviate the necessity of frequent recurrence to the judicial tribunals for the adjustment of disputes of this nature; and the speedy decision of the revenue boards either to confirm or cancel a sale, will necessarily operate to prevent controversies which would otherwise arise among those possessed of subordinate interests in the mehal sold.

Thirdly. The rules under which all questions relative to the resumption of lands held free of assessment under an illegal or invalid title, are made cognizable by the revenue officers.

136. We shall next proceed briefly to notice such rules as have been enacted for declaring all claims to hold land free from assessment, or to subject land held under invalid titles to assessments, cognizable by the revenue authorities.

137. The enactment of Regulation II. 1819, was particularly noticed to your honourable Court in our revenue Despatch, dated 22d August 1822. The several clauses of the 30th section of that regulation, by which all claims by proprietors, farmers or malgoozars to subject land to assessment, or of individuals against the foregoing description of persons to hold land exempt from revenue, are directed to be heard and determined by the collectors (a class of suits much more numerous than those in which the demand for rent is on behalf of government, or in which government is sued for an exemption from revenue) are calculated to relieve the civil courts from a portion of their business.

Fourthly. Such rules of a local nature as have for their object the adjustment of special matters connected with revenue administration, without adding to the business of the ordinary courts.

138. Under this head of the subject we may notice the provisions of Regulation XXIX. 1814, which were enacted to give stability to the arrangement established for the Ghatwalee tenures in Beerbhoom, and which, by the adjustment of the relative rights of the Rajah of Beerbhoom and the Ghatwals, have necessarily removed a source of dispute which would otherwise have caused the institution of suits in the civil courts of that district.

139. We may likewise advert to the appointment of a separate officer as commissioner in the Sunderbunds, under the provisions of Regulation IX. 1816, as calculated to relieve the civil courts of the districts of Nuddea, Jessore, Backergunge, and the Twenty-four Pergunnahs, from the adjustment of a variety of disputes which would otherwise be entailed upon those tribunals.

140. But the most important regulations of a local nature which we have to notice to your honourable Court, as affording relief to the civil courts within the sphere of their immediate operation, are those noted in the margin, which provide for the constitution of the sudder and mofussil special commissions, and define the powers vested in those upon those tribunals in the districts of Cawnpore, Allahabad and Goruckpore.

Reg. I. 1821.
— I. 1823.
— IV. 1826.

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141. With our revenue Despatch of the 30th July 1823, we forwarded, for the information of your honourable Court, the reports and proceedings of the commissions which had been received up to that period; and in the 89th and following paragraphs of that Despatch we informed your honourable Court that the proceedings of the commissions had generally met with our entire approval.

Fifthly. Rules relative to other branches of Revenue, unconnected with land, which have for their object to relieve the civil courts from the adjustment of cases of that nature.

142. The only further rules which it is necessary for us to notice under this head, as having been enacted subsequently to the receipt of your honourable Court's Despatch now under reply, and which have a tendency to relieve the pressure of business in the courts of civil judicature, are the provisions contained in Regulation XIII. 1816, and Regulation X. 1819.

143. Your honourable Court are already aware that by the 80th section of the former regulation all suits, complaints and informations for the recovery of any fine or penalty on account of the illicit cultivation of the poppy, the illicit manufacture, sale, purchase, importation, transportation or possession of opium, are made cognizable exclusively by the collector of land revenue or other officer in charge of the abkaree mehal, from whose decision an appeal lies to the board of customs, salt and opium. The judicial powers above described to be vested in the collectors and other officers in charge of the abkaree mehal have been still farther extended to the opium agents in Behar and Benares, and their respective deputies, by the provisions of section 19, Regulation VII. 1824.

144. By the provisions of the 96th and following sections of Regulation X. 1819, the officers of the Salt Department are vested with judicial powers in all cases of complaints or informations for the recovery of fines and penalties on account of illicit dealings in salt to a limited extent; and the interference of the civil judges in the decision of such cases is only requisite in case the quantity of salt confiscated shall be greater than 20 maunds, or the amount of fine exceed 30 rupees.

145. As far as the proceedings of the officers in both of the departments above alluded to have fallen under our notice in the periodical statements of the cases decided, which is required to be furnished by the board, we have every reason to think that the judicial duties thus entrusted to them are discharged with judgment and discretion: and the instances in which the judicial tribunals have been compelled to interfere by setting aside the decisions of the salt officers, appear to have been much less numerous than might have been expected.

146. The foregoing review will show the extent to which we have met or are endeavouring to meet the wishes of your honourable Court, by rendering the services of the revenue authorities available in ascertaining, recording and maintaining the rights and interests of the agricultural classes of the community, and in guarding against or remedying those evils and abuses which are considered by your honourable Court as chiefly reflecting discredit on the administration of civil justice by our tribunals. It will further have its weight in satisfying your honourable Court of the impracticability of transferring, as a general measure, the duties of a magistrate to the collector, without abandoning the accomplishment of objects (closely connected as they are with the ordinary functions of a collector) which are calculated to facilitate the administration of civil justice, and in our judgment to be far more efficacious in promoting the essential interests and happiness of the community, than the transfer to the collectors of the duties of magistrates.

147. Having concluded our remarks on such of your honourable Court's suggestions as relate to the administration of civil justice, we propose to bring under your honourable Court's notice and consideration some arrangements besides those already adverted to, which have been adopted since the date of your letter, or which appear to us calculated to be of benefit.

148. By Regulation IV. 1816, and III. 1826, the judge of circuit has been required to visit the civil gaols at each sessions, and to issue such instructions as may appear necessary for the better treatment and accommodation of the prisoners, or for redressing any grievances or undue restraint to which they may be subjected. He has been authorized to receive from the prisoners petitions relating to such grievances on unstamped paper. The civil gaols have been placed under the control of the magistrates, and such of the rules in force for the management of the criminal gaol as are applicable to civil gaols, have been extended to them.

149. The office of superintendent and remembrancer of legal affairs, which was constituted under Regulation VIII. 1816, has proved of eminent advantage to the government in the hands of the able officers by whom it has hitherto been filled.

150. The sentiments of the different boards in regard to the practical utility of the office, of the degree in which it has operated to secure the just rights and interests of the government, and to prevent the public officers from prosecuting or defending untenable claims in the courts of justice, have been brought under your notice in a separate Despatch* from the Judicial Department.

* 24 Oct. 1826.

151. The provisions of Regulation XV. 1816, have furnished facilities for the adjudication of civil suits in which our native soldiery are parties.

152. The deviation which has been sanctioned by that regulation from some of the ordinary forms of proceeding is not very material, but it is calculated to meet the peculiar difficulties in which, from the nature of the service, the native soldiery are sometimes placed in the prosecution and defence of their civil interests.

153. By

153. By Regulation XIX. of 1817, an option has been given to parties to institute original suits between 5,000 and 10,000 rupees in value or amount, either in the zillah or provincial courts.

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154. Heretofore all suits exceeding 5,000 rupees in value or amount were required to be instituted in the provincial courts. The tendency of the new rule is to relieve the superior tribunals, in some degree, from the cognizance of a class of suits which form a great majority of the whole number of suits filed in the first instance in the provincial courts. The same regulation has provided some rules calculated to prevent unnecessary hardships to individuals under summary prosecution for alleged arrears of rent.

155. Regulation VI. of 1823, has also provided for the summary adjustment of disputes, and the more certain enforcement of contracts entered into between the indigo manufacturers and the cultivators of that plant. The want of rules of this description had been productive of many frauds and abuses on one part, and of acts of violence and irregularity on the other, especially in those districts in which the competition amongst the manufacturers was most active. The same principle may perhaps be hereafter extended with advantage.

156. By Regulation VII. 1825, rules have been enacted to facilitate the execution of decrees, and to enable the judges of the civil courts to obtain the aid of the collectors in the enforcement of decrees relative to the proprietary right or possession of land, whether by giving possession to the parties entitled thereto, or by the adjustment of wasilaut accounts or otherwise; and by Regulation XI. of 1825, provision has been made for fixing the principles by which claims to lands gained by alluvion or by dereliction of a river or the sea, are to be determined.

Police.

157. Under this head your honourable Court have first adverted to the large establishments of subordinate police officers formerly maintained under the native government as watchmen in each village, gunge, haut and bazar, who were supported by grants of land held rent free, or at low rents, and by contributions from the inhabitants, and to the separate establishments of pykes or chowkeedars, who were of the nature of police militia bands, and were more or less numerous according to the discretion of the ruling authority, or of the aumils and zemindars who represented that authority in the interior.

Pars. 91 to 97.

158. You have noticed that in the early periods of our administration, the resumption which had been made of the lands allotted to the zemindars and pykes for their services in guarding the villages and larger districts against robbers, was one of the causes of the then defective state of the police, but that though mutilated and deformed, these establishments were still to be found in most parts of the country when the present plan of police was established in 1793; that subsequent resumptions of the allowances granted to zemindars for keeping up thannahs of police establishments, and the discharge of those establishments under Regulation XXII. 1793, aggravated the evil; and that other unauthorized resumptions have been made since the permanent settlement, by the zemindars and others, of lands and allowances appropriated to the maintenance of village police.

159. The facts thus adverted to by your honourable Court are but too well founded; we conceive, however, that it was neither the intention of the framers of Regulation XXII. 1793, nor of former governments, to authorize the resumption of lands or allowances granted to village watchmen; but that the resumptions in question were meant to apply to the establishments called thannahs, or bands of police officers of the nature described in the 96th paragraph of your Letter; we must especially lament that the omission to record and specify the lands and allowances of the village watchmen, which were intended to have been preserved, has given opportunities to the zemindars of gradually committing abuses of this nature, which it has proved almost impossible to guard against with effect, and which it would be now utterly impracticable to trace out and recover, so as to appropriate them to the purposes to which they were originally applied.

160. We concur with your honourable Court on the necessity of such village establishments towards an efficient police, in the impracticability by other means of gaining accurate and early intelligence of the commission of crimes, or of apprehending the perpetrators of them, and in the injurious consequences which have arisen from the resumption, whether authorized or unauthorized, of the lands appropriated to the maintenance of the village police, and from leaving undefined and insecure what survived of that institution in the year 1793.

161. The foregoing remarks apply to the Lower Provinces. In the districts in which a permanent settlement has not been introduced, we still have it in our power to ascertain and define the allowances, and to secure the rights of the village watchmen; and the attention of the collectors has been specifically directed to this object.

162. The general information before us shows, that in almost all but very small villages, individuals performing the duties of watchmen, whether called chowkeedars, negahbans, pykes, dosauds, or by any other designation, are actually maintained, either by land or money payments, or contributions in grain furnished by the landowners and village communities. We are of opinion that the interests of the zemindars are so directly involved in the maintenance of this class of officers, and that their services are so essential to the villagers themselves, that there is little danger of their being further reduced. They are, however,

however, in general very insufficiently paid; their allowances are uncertain; their number is not always regulated by the extent and population of the village; nor are they remunerated with any careful reference to the degree of labour and responsibility imposed upon them.

163. The allowances themselves, and the manner in which they were paid, were, we apprehend, more matters of local usage and convenience than of legal and recognized right; their original amount could not now be traced in detail; and in any general measure which may hereafter be adopted, their allowances must be viewed as having formed a component part of the deh khurcha, or deduction granted in the assessment on account of village expenses. We are persuaded of the hopelessness of any attempt to fix the exact amount which should be paid to each watchman, or to secure its regular payment by any legislative enactment; our magistrates have been urged (and they feel the importance of the measure too strongly to neglect it) to use their influence and authority towards maintaining these institutions in an efficient state, and to prevent as far as may be in their power, any reduction in the allowances hitherto paid to this class of officers.

164. Amongst the principal measures which have been suggested for the improvement of the chowkeedary institutions, may be mentioned the extension to the towns and more populous villages in the interior of each district, of the system now in force under the provisions of Regulation XXII. 1816, and section 6, Regulation III. 1821, for establishing a subsidiary police at the cities and sudder stations of the magistrates and joint magistrates, to be nominated, appointed and maintained by the respective communities for whose benefit and protection such establishments may be required.

165. Considering as we do the provisions of those regulations to be equitable and expedient, and satisfied as we are that great practical advantage has resulted from the adoption of the system therein provided, we should have been entirely disposed to sanction the further extension of that system, if past experience had shown that the agency of the punchayets, on whom devolves the task of fixing and applying the rates of assessment, and of selecting the chowkeedars, could be relied on. Unfortunately they have failed to show that public spirit, that good faith towards their fellow-citizens, and that regard to the interests of the community, which we had hoped to find.

166. The members of the punchayet have in too many instances endeavoured to exempt their connections and friends, and the richer classes of the inhabitants, from paying any share of the assessment, and have otherwise neglected or abused the trust reposed in them; nor could we extend the same system to towns remote from the personal control of the magistrates without incurring the obvious risk, that the powers vested in the punchayet would be abused, in proportion to the difficulty which distance would create of checking their proceedings and correcting their irregularities.

167. We shall nevertheless be prepared to encourage, as we have in some instances already encouraged, any arrangement of this nature which the inhabitants of populous villages and towns may voluntarily desire to adopt; leaving the inhabitants in such cases to select the individuals by whom, and the general manner in which the arrangement is to be superintended.

168. Another measure which has been strongly urged by several of our officers is, that of rendering the village watchmen throughout the country stipendiary servants of the government, and exclusively subordinate to the magistrates, by commuting all their allowances, whether in land or money or grain, for a fixed salary, to be paid through the darogahs of the thannah in which the villages are situated: the expediency of this arrangement has been more particularly urged by the late Mr. John Shakespear, who in his report, dated the 16th December 1816, paragraphs 59 to 94, has entered into some details of the plan itself, and has endeavoured to diminish the weight of the arguments by which it is opposed.

169. Mr. Shakespear's plan, and that of other officers who concur with him, proceeds upon the principle of establishing a system of police entirely thannahdary. He proposes to exclude the zemindars from all share in its management, and anticipates a very partial inconvenience from thus rendering the village watch independent of those classes in society to which they have been hitherto reckoned subservient: he is of opinion, indeed, that this inconvenience might be guarded against by leaving the election of the chowkeedars in each village to the resident inhabitants, which would obviate all apprehension of improper persons, or of persons adverse to the real interests of the inhabitants, being employed in these duties.

170. Mr. Shakespear views this plan as the first step towards breaking the exorbitant power of the zemindars; and he thinks that the chowkeedars would be more beneficially employed under the control of the darogah and the superintendence of the magistrate, than under that of the zemindar, by whom they are now too frequently employed in acts of extortion and injustice towards the villagers.

171. It does not appear to us, however, that the mere right of choosing their own watchmen, without any other control over them, would protect the villagers from the abuse of authority which might be committed by those officers. The very spirit of the plan consists in establishing a body of police agents, whose only view shall be the maintenance of strict order, and whose only check is the active superintendence of the superior thannah officers. How far such a state of order might consist with the true interests of the community,

community, is a question which could hardly be left with safety to the decision of the inhabitants themselves; and we concur with the board of commissioners in the Western Provinces in opinion, that by the emancipation of the village watch from the authority of the zemindars and higher classes of the inhabitants, an odious and intolerable tyranny would be erected; ancient and most cherished prejudices would be violated; and the gradation of ranks, which has so long subsisted, would be suddenly subverted.

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172. With regard to the policy of again employing the zemindars, either exclusively or principally, in the management of the police within the limits of their respective estates, your honourable Court will find, in the Report of the Sudder Dewanny Adawlut and Nizamut Adawlut, many extracts from the communications of the judicial officers, explanatory of the reasons which render such a measure in their judgment both unsafe and inexpedient.

Pars. 171 to 184.

173. The court of Sudder Dewanny Adawlut and Nizamut Adawlut are themselves of opinion, that with few exceptions the landholders, farmers and their agents, cannot be safely trusted with such authority; but that from their situation, influence, and consequent responsibility, they should be held accountable under penalties for the early communication of intelligence respecting the commission of heinous crimes and the resort of notorious criminals within the limits of their estates, and that by those means we shall derive from them all the useful aid which can be obtained, without investing them with a power which it would be dangerous to grant.

174. The view which has been taken by the Marquess of Hastings, in his Minute of the 2d October 1815, of the foregoing questions, and of the general system of our police establishments, appears to us equally just and perspicuous; and we beg to submit the following quotations from that document, as containing our own sentiments on these important subjects, instead of offering similar remarks in language less clear and forcible:

"The police establishment of every zillah (or magistrate's jurisdiction) may be stated to consist of a darogah, with from 10 to 15 burkundauses for every thannah or division of country, varying from 100 to 300 square miles. In cities the extent of jurisdiction was regulated with reference to the population; but everywhere these thannahs, with the magistrate's office, formed the stipendiary police establishments introduced by our government in 1792, and maintained to the present day without any alteration in principle, and with only a late subsidiary addition, to which I shall hereafter have occasion to advert.

"On the general authority and constitution of the darogah's office, little need be said but that he was invested with the full control of the police of his jurisdiction, under the orders of the magistrate, and all existing village institutions of watch or patrol were subjected to his authority.

"The expense incurred in these numerous establishments was undoubtedly extremely heavy; but there is reason to believe that the state of the country at the time was such as to throw considerations of expense out of the scale, so as the object of securing the peace of the interior could in any way be accomplished. Government had already tried in vain every mode that had suggested itself: the large independent jurisdictions of native magistrates, or foujdars, though acting under the eye of our own revenue officers, had completely failed: the substitution of European magistrates, with a general responsibility in the landholders who were to act under their authority, had produced no amendment in the police of the country; for notwithstanding the union of the authority of the magistrate with the whole revenue and civil jurisdictions, there was still experienced a want of power to enforce the magistrate's orders on the landholders, and to secure for him access to the requisite sources for information.

"It only remained, therefore, for government at the time to devise such an institution as might afford the means of a more active and efficacious control; and as experience had shown that the landholders were not to be trusted with the exclusive management of the police of their own estates, nothing was left but to supply their place by appointing separate officers to be set over them, and imposed upon the country. It was in this view that the thannahdary institution was introduced in Bengal; and although I am aware there is good reason to believe that the wretched state of the country at the time was as much owing to the defective and inefficient condition of the criminal courts, as it was the fault of those intrusted with the administration of the police, still I at present see no reason to doubt that the thannahdary, or some such stipendiary establishment, was at the moment indispensable. An operative mechanism of that sort was required to give weight to the authority of government and of its officers, as well as to reduce the spirit of violence and lawless rapine which seemed then to prevail under the collusion, if not overt support, of the landholders and farmers in every district.

"Whether the institution thus introduced was calculated to effect this object, and whether it has proved successful, as well as whether the necessity of its permanent maintenance still exists, are points which we have now to determine. If it be supposed to have been one of the objects in the contemplation of the government, from the formation of these establishments, to have furnished force adequate to the protection of the community, and capable of undertaking the prevention of crime by its own vigilance, in this respect the institution must be admitted to have failed. The hired force of a thannah is totally insufficient for such purposes. Even in its collective strength it could scarcely venture to resist or pursue a gang of armed robbers, and it is numerically inadequate to give individual protection against common theft and burglary beyond its own immediate station.

"But it may safely be asserted that no government ever did or ever can defray the whole expense of a preventive police to this extent; much gratuitous aid, direct or indirect,

is afforded in every country. A preventive police must depend not only on the skill and vigilance, as well as promptitude, with which the stipendiary force of the state is directed, but also on the energy of individuals in their respective stations of life. The hired arm of the police must necessarily be limited both in its extent and effect. Its principal support must come from society itself; and the opportunity should not be missed of observing, that hitherto in this country it has had no such aid. I can, however, discover no sufficient reason to presume that protection or prevention, by supplying an adequate guard, was an object in the introduction of the thannahdary system. It appears to me to have been devised exclusively with the view of strengthening the arm of the magistrate, and of introducing an efficient control over the police of the interior by which that duty was to be performed; the landholders had hitherto been entrusted with this control, and undoubtedly if an individual estate could be regarded abstracted from its connection with any other, the propriety of leaving the care of the peace to those whose station gave them influence, and whose interest would ensure a due attention to its preservation, would be a different question, and might perhaps be advisable; but every estate is surrounded by others, and this contiguity gives rise to jealousies and conflicting interests, which, unless there is a strong and vigilant control to keep them down, must soon engender a confusion sufficient to baffle every unsupported effort of a magistrate to unravel.

" The landlord of wealth and influence requires no authority from government to enable him to protect himself, and to prevent, if willing, the commission of decoity by his own tenantry: he might even be expected to exert himself to restrain them generally from preying on each other. In these respects, therefore, nothing perhaps would either be lost or gained by investing him with special powers; but while we could have no security that the delegation of such authority to the zemindar would induce a greater activity in preventing his tenantry from plundering the inhabitants of neighbouring estates, we might confidently anticipate the frequent misapplication of it to purposes of private revenge. There can be little doubt that, under the system which left to the landholders the management of their own police, its powers had been almost universally perverted in this manner. On that account the thannahdary system was devised. It was the object of that system to disarm them of those powers, and to vest the control in the hands of stipendiary officers of government, free from all those passions and feelings which had bred the confusion; but it was only the controlling portion of the former system which was then supplanted; the former village institutions of watch and patrol were left untouched, save that they were made subservient to the thannahdars, and a portion of their support commuted from land into money payment. It was to these, therefore, that the community was still to look for its immediate protection, and our government only undertook to see that they did their duty in that respect. The question of the success or failure of the thannahdary system resolves itself therefore into the following points: Has it broken that spirit of violence, and disposition to take the law into their own hands, which existed on its introduction in every class possessing influence throughout the country? and, has it established a more effectual control, or otherwise improved the previous institutions for the protection of the community?

" A reference to the present state of all the Bengal zillahs will perhaps satisfactorily answer the first question. Chicanery and litigiousness appear almost universally to have taken the place of violence; and though the state of the Nuddea and some other districts, at so late a period after the introduction of this system as even the year 1808, might then have almost justified a conclusion that it had altogether failed, still these disorders may be traced to other causes than defects in the system; and the present improved state of those districts, effected merely by the means and agency the plan yielded, combined with the previous general amelioration of the state of other districts, affords satisfactory proofs of the degree in which the system has been efficacious, and shows that it was originally well calculated to effect the object for which it was principally devised. I must confess that I consider it one of the main springs of the present strength of our government, and one of the chief causes why insurrection has been so totally unknown, notwithstanding the frequent recourse that has been had to many very unpopular measures. In the several districts of Bengal, military aid is at present hardly ever called for to support the civil power, and as far as I have yet been able to observe, I really believe that this is greatly owing to the effects of the thannahdary system.

" Though, therefore, it may be objected to this system that it was a sudden and violent innovation on all existing institutions, instead of a cautious and gradual improvement of them, I cannot but believe that such an innovation was necessary to the support of our government, with which, as it did not arise out of the society, the institutions of the society could hardly have been amalgamated. I should accordingly feel inclined strongly to recommend its maintenance, in preference to any other that has been yet suggested, not only in Bengal, but in the Western Provinces also. In these, indeed, I conceive the system to be yet more necessary in order to give effect to the magistrate's authority, to render the power of our government active and omnipresent, and to wean the population from those habits and notions prejudicial to the peace and well-being of society which they had imbibed under the weakness of former rulers. In all native governments, the frequent detachment of a military force to every quarter of their territory is indispensable to keep the country in subjection, and annually to collect its revenues. Our government experienced at first the same necessity until the introduction of this system, but from that moment the calls for military aid to enforce obedience to the laws have been gradually diminishing.

diminishing. The thannahdar and his establishment are always perfectly informed of every thing that is passing, are at hand to interpose everywhere the authority of government, and to bring its powers immediately before the eyes of the discontented or disaffected, before a systematic opposition can be organized; and though he can effect little or nothing by direct force, still the certainty that the support behind him is unlimited in extent, must always ensure to a thannahdar respect and obedience as long as he keeps within the line of his duty. The control, too, of the magistrate is ever ready to confine him to this, and to punish any abuse of power, nor is there anything to restrain the community from bringing such transgressions to his notice whenever cases may occur; as far, therefore, as it was desirable to destroy the spirit of violence which subsisted, so far has the thannahdary system been productive of essential benefit to the country; and, from what I have yet observed, this object has been effected with as little harshness or injury to the community as was possible. Its efficiency, however, has been found to extend beyond the immediate enforcement of the authority of government; it is fully equal to the effectual performance of all the duties of police which follow the actual perpetration of a crime. In its investigation and in the apprehension of the offenders, it must be acknowledged, where the magistrate's control is able and active, to fall very little short of the best organized system of Europe. To whatever duties indeed a stipendiary police has in any country been found equal, it may safely be asserted that the thannahdary system will not have failed in their performance. Its officers have every incitement to activity which exists in similar establishments elsewhere, while the checks against supineness are perhaps superior; the same exclusive notions of profession prevail among them, and they have all the most thorough conviction that their continuance in office and means of livelihood depend upon the satisfaction they may give to their superiors in the discharge of the duties entrusted to them.

Appendix, No. 2.

(1.) Letter from the *Bengal* Government, 22 Feb. 1827.

" As far indeed as my observation has yet gone, I have seen reason to be perfectly satisfied with the efficiency of the thannahdary system in itself. It remains to be inquired what effect it has had upon the existing police institutions of the country, and upon the community at large.

" I have before stated, that it was a feature of the thannahdary system that the native village institutions were placed under its immediate control; the first question therefore is, has this control produced amongst these institutions a greater degree of vigilance and activity?

" It appears to be a general complaint amongst the magistrates, both of the Upper and Lower Provinces, that the village establishments furnish at present even an inefficient class of officers; and they trace this inefficiency to the double capacity in which those individuals serve. That complex character involves a subordinacy to two authorities; to the established police in matters of that description, and to the zemindar or his local representative in matters of revenue. The magistrates complain, that as they cannot obtain the cordial co-operation of the zemindar, they have but little command over the village police, the officers of which necessarily look up more directly to the person who pays them than to the government or its officers, from whom they receive no wages.

" If the magistrates ever expected to have the same authority over the village as over the stipendiary police; if they thought that the zemindars would, from public spirit, co-operate with them in establishing such an authority over the village institutions, I must confess that I think they expected too much; more even than it was natural, from the constitution of the system, they should have.

" It would have been unreasonable to look to the landholders for a cordial disposition to further a system, the immediate effect of which was to supplant their own police authority. They would naturally regard it as a sudden and violent innovation, to the prejudice of their rights and consequence in society, and must necessarily have felt a jealousy towards its officers, which would give birth to at least a supine indifference, if not an active disposition to counteract their efforts for the improvement of the police.

" In this view, there is wisdom in the provisions of the legislative enactments of 1792 and 1793, which in depriving the landholders of any police authority, required from them only a negative conduct, leaving them to wear off their jealousy in neutral inactivity, and trusting to the gradual increasing influence of the judicial officers for securing a more effective, because more willing, co-operation than a legislative enactment would obtain. I am indeed not quite satisfied of the expediency of several attempts which have been subsequently made to coerce this co-operation; for I should fear such might have a tendency to exasperate the jealousy that must in the first instance have disjoined the landed interest from the regular police.

" The system, as originally devised, exacted no co-operation from zemindars. It took from them the power of police, declared its own authority paramount over servants hitherto exclusively theirs, and seemed to consider itself above the necessity of resorting to the aid of their influence to establish every requisite control over the mofussil village institutions. Government indeed had in its own hands powerful means of controlling such institutions, nor were there any considerations to restrain the full exercise of them. The village police consisted of special officers who had a special duty to perform, for which they would be held responsible; they were to be taught that inactivity would not pass with impunity, and that collusion, or even a disposition to withhold the most active assistance from the regular police, would infallibly entail punishment. An efficient and watchful control was set over their conduct, and the law enabled the proper authorities to enforce it, by arming them with the power of punishing neglect, even with severity.

" It was not therefore necessary to solicit the co-operation of this class; their assistance could be secured by compulsion; and although this assistance, being constrained, might be in some respects defective, yet it was apparently all that the system originally admitted of, and perhaps all that the essential objects of it required.

" There can be little doubt that village police, controlled upon these principles, has been the main engine of the success which has attended the thannahdary system in putting down great crimes. It is from its officers that all information of the character of individuals, of the haunts and intentions of robbers, and of every thing necessary to forward the objects of police, must ordinarily be obtained. They are the watch and patrol to which the community looks for its immediate protection, while their station in society, general communion of caste with one another, and every circumstance of their situation, furnish the means of being useful; nor is there any thing wanting but an active superintendence to keep them to their duty by uniting it with their interests.

" This has been afforded by the system as it stands; whenever a decoity or other heinous crime occurs in a village, the darogah's duty calls him immediately to the spot, and he goes there with only a few burkundauzes, and with no information except of the occurrence of the crime; his only mode of proceeding is to collect the watchmen of all neighbouring villages, and to question them as to all the circumstances, with a view to get from them that information which they only can afford. The activity of these in ascertaining and pointing out the perpetrators is quickened by the fear of being suspected of connivance, or at least of being dismissed and stigmatized as inactive or incapable. Here is the control which, by the influence of the fear of punishment, ensures activity, and forces from the village police the most effectual aid in the performance of all those duties which follow the perpetration of a crime. But the fear of this heavy responsibility makes it as much their interest to be vigilant with a view to prevention. Whenever, indeed, this fear ceases to operate, whenever the control may become lax, the district will soon fall out of order, and the village chowkeedars will generally be the leaders in the confusion. They can only be restrained by the certainty that they will be the first that are called to account.

" It was by the instrumentality of a control fashioned on these principles that the existing important benefits have been acquired for the country, in the suppression of all the most crying offences by which its peace had been so long disturbed.

" There has yet been but little co-operation from the class of landholders, for the inert neutrality enjoined them cannot be regarded as support. Indeed, at the present day, the want of co-operation, notwithstanding the many attempts subsequently made to obtain it, is matter of universal complaint.

" If then the system of control by fear of punishment has shown itself equal to the accomplishment of all the most essential objects which government had in view in introducing it, whence arises this general notion of the inefficiency of our system, as far as the native police institutions which we found in being form a part of it?

" It arises from our having already reached that stage of improvement, beyond which it is impossible to advance without assistance in the general concurrence of society.

" Hence the constant disappointment of all the efforts of our judicial officers to push their improvements further by the same means. A zealous and intelligent magistrate may suppress decoity, destroy or disperse gangs of robbers, however desperate and firmly rooted in the country; he may prevent affrays, and every violence which materially disturbs the public peace; but if he attempt to carry his improvements farther, his efforts fail, and though he perhaps justly attributes the failure to the inefficiency of his means, it is not so much from the want of physical strength in the establishments, as because his instruments are not of a nature calculated to excite society to a general co-operation with him.

" Every judicial officer appears more or less to have felt that his efforts to go beyond the point which has been reached have not proved successful; most of them attribute the failure to the impossibility of exciting those possessing influence in society to a cordial union of exertion with themselves, for the furtherance of objects connected with the public good; but in the mode of accounting for this circumstance, and in the suggestions and propositions to which their feeling has given rise, there is, as might have been expected, a considerable variety of opinion. Some conceive our police establishments to be inefficient in force and number; others attribute every defect to our inability to make those who should lead the society shake off their supineness and indifference. The greater number of judicial officers indeed seem to be for extending the magistrate's power over all the institutions of police in being; they are for substituting others, or new-modelling those existing, so that they may acknowledge subordinacy to no other authority but the magistrate; others are for re-admitting the leaders of society to a share of the responsibility and authority of police, in order to secure the co-operation required; and some are for coercing the co-operation by penalties attached to omission, without yielding any share of the power of responsibility.

" The extension of the chowkeedary system, or subsidiary police lately introduced into cities and into the sudder stations of zillahs to the villages generally, is the form in which the new-modelling of existing institutions is usually proposed.

" The principles on which this addition to our former establishments have been devised, are simple and apparently judicious. It is right that the society should provide for its own internal protection in minor cases, beyond what can be provided for by government from the general resources of the state; and wherever the society may not of itself have already devised a plan for this purpose, government are of course justified in coming forward to require

require that it should do so, as well as in pointing out the form in which the object can best be accomplished.

" In the cities and sudder zillah stations, in which alone the chowkeedary system has yet been introduced, there were found no institutions for its protection previously existing in the society; the government called therefore upon the society to provide for that further and more minute internal protection, which the general institutions could not afford, and ordered its members to elect from amongst themselves a certain number of managers, with an establishment of watch and patrol sufficient to provide for these objects. The most equal and proper mode of defraying the expense was also suggested by government in the shape of a cess upon each house, varying in amount according to its style, the whole to be arranged and levied by the delegates of the society. Such is the subsidiary police establishment to which I before alluded. It is obviously an institution which, if not abused, yields the promise of great benefit to the society; and though on its first introduction it has been rather unpopular, as I myself witnessed in the course of my tour, it may be presumed that this dislike to it must wear off, when its object is more thoroughly known, and its benefits have been longer experienced. There can be no doubt also, that its introduction so speedily after the abandonment of the house-tax (which in some respects it resembles) must have very largely contributed to the prejudice against it. On the whole, therefore, I can at present see no grounds on which the propriety of this measure can be fairly questioned, and I conceive the cities to have no right to complain against it, unless they can make it appear that the institution was not required in correction of any prevalent inconvenience: if it be only said, that the establishment is sometimes more burthensome than necessary, from the plan having been in the first instance occasionally overdone in its execution, the argument will not affect the general grounds or propriety of the measure, and, like an objection derived from occasional inequality of cess, will be removed by the gradual operation of time and of increased experience. I must confess, however, that I feel an unwillingness to listen to suggestions for the general diffusion of a system of this nature over the smaller towns and villages, in which, or at least the latter of which, it would have to supplant already existing institutions. These institutions are certainly objectionable, inasmuch as their functionaries have at present a double duty, serve several masters, and are only so far subject to the magistrates or other police authorities as the fear of punishment attaching vaguely can render them. I have my doubts, however, of the propriety of making such institutions exclusively the servants of the government, in the shape of police officers, subject only to the magistrate.

" Constituted as the village community usually is at present, the chowkeedars are servants of the community, and as well from caste as from custom, occupy the lowest station there. Paeeks, geraeets and duneks, are not exclusively servants of the zemindars; besides the trifling allowance they receive for the performance of their duties, which are chiefly distinct from police, they are paid for the protection they afford the society, by an almost discretionary contribution from the villagers, partly in land, partly in grain at the time of harvest, and partly in yearly or monthly presents in money, from residents of a certain degree. It is the interest, therefore, of these functionaries to secure the goodwill of the community they may belong to; indeed, wherever, from the laxity of the general control exercised over them, they may have taken to practices destructive to the general peace, it will always be found that the scene of their crimes is not their own place of residence, nor will their own community have been in any way the sufferers.

" Should, however, a class of officers be introduced in the place of these individuals, calling themselves public servants, or naukars of the sircar, instead of being the servants of the community, they would be masters of the latter, and an authority would be established pregnant with the most odious tyranny.

" I am aware that the chowkeedary system is constituted on the principle that it should arise out of the society, and be subservient to it through the persons of its delegates: undoubtedly, in cities where the population is usually of a better stamp, and persons have a more perfect acquaintance with the principles of our government, where those also possessing influence in society have commonly a ready access to the magistrate either directly or indirectly, the chowkeedary establishments would find it impossible to assume a power beyond what might have been contemplated in their formation. The case, however, would be otherwise in villages at a distance from the controlling eye of the magistrate, and among people debarred access to him, ignorant of the motives which guide his actions, and unable to comprehend the principles which regulate his conduct. In such communities the chowkeedars might, with the managing committee at their head, conspire against the rest of the inhabitants, and having in their hands the management of an assessment, and the legal power of enforcing it, might eventually become extortioners and oppressors.

" I must confess I see reason to fear that it will be impossible to devise appointments, which, away from the immediate control of European officers, would still be subservient to the legitimate authority of the community. We cannot establish generally a system of free election and representation; whatever establishment might be introduced, there must be a gradation of service to official superiors, the whole looking up only to the government as their common master; thus each subordinate authority would expect to be supported on his own representation, while the complaints of those unconnected with the whole, were listened to with suspicion and distrust.

" In this view I do not consider it to be desirable that any reform of the village institutions should be attempted with the object of making them servants of government, and exclusively subordinate to the magistrate. I should fear too that in villages at a distance from the

the magistrates, even the subsidiary chowkeedary system would degenerate into one of this description, and become at least independent of the community. Indeed, I will almost go so far as to say, that I see little objection to the institutions continuing as they are, since by that means their dependence on the society can best be secured. They have, to be sure, at present, as already remarked, two distinct duties and many masters; but as the establishments are less burthensome to the community in consequence, and as in any other case you could not secure them wages sufficient to afford an independent maintenance without a direct tax (which they would themselves, perhaps, have to collect) even this may not be without its advantages.

" But if the village police institutions are to continue to serve the landholders, and to perform revenue duties as well as those of police, the magistrate will never be able to get from them more than such constrained service as the fear of punishment might enforce; and how are any further improvements of police, or of the moral state of society, to be effected? Certainly, in my opinion, not by imposing new establishments on the society, with which they cannot amalgamate. As far as force can effect the object, it may be done by the system as it stands. Whatever cannot be accomplished by those means of control a magistrate at present possesses, can only be done by the society; we must therefore look to obtaining its co-operation by other means than by further strengthening or rendering independent our establishments, for it is not through them that society is to be moved.

" If it be an object with us to win the community to our interests, it must be obvious that the most simple mode in which this can be effected, is to gain over those who possess influence in society; and as far as the zemindars or landed interest are of this description, so far is their co-operation most desirable, and so far they are the class we should first try to gain.

" I have before hinted, that I entertained doubts whether the co-operation of this class was to be acquired by coercive measures. Indeed it would, on general principles, argue ignorance of human nature to suppose it. It is said, however, that the higher orders of society in this country have uniformly evinced that want of public spirit, and that indifference to the promotion of the general good, which has left us at present with no other instrument than coercion for working on the community, and in this view additional penalties have been proposed; besides a further responsibility to the magistrate, still without giving to the landholders any powers of police control. I am not an advocate for any plan of this nature; I conceive that under the existing constitution of our system, a magistrate possesses abundant power of annoyance, insomuch that where a landholder may be thought to have failed in yielding the support or co-operation required, it would be difficult to draw the line beyond which he could not be made to suffer; he is liable both in person and property to a considerable extent; but he is yet further liable to suffer in character and consequence, from the indignities which a magistrate has it in his power to heap upon him, without passing the limit of his authority.

" Nothing, I am satisfied, would be gained by arming magistrates with further powers of infliction, or by the imposition of further legislative penalties on the class of landholders. Even the obligation to make good the value of property stolen on their estates, although the most moderate additional responsibility suggested, and although sanctioned by the former established usage of the country, appears to me obviously unjust. A zemindar held to be so answerable, would frequently be punished for an act in which he would not be surmised to have participated, and against which no human prudence could provide; at the same time, the penalty in extent would be unlimited and undefinable, and he would receive no compensation whatever for the risk. In short, under such a provision, there would be no possibility of proportioning the penalty to the degree of neglect, or to the means of prevention which the zemindar might possess.

" As far indeed as the present state of my inquiries enables me to form a judgment, I must confess myself decidedly of opinion, that nothing can be done by further coercion in any shape. Nor am I disposed to admit the belief that this is our only instrument for working on the native society in order to obtain its co-operation; we must suppose that mankind are influenced in this country by the same passions and feelings which actuate their conduct elsewhere. They are to be excited, therefore, by similar means to the pursuit of similar objects. It is not only from an abstract sense of the propriety of a given line of conduct, that men are led to its pursuit in preference to any other. If there exist in Europe a more general disposition to forward measures having the general good for their object, than has yet been experienced here, it may as much be attributed to the superior inducements individuals have to actuate them to such a course in Europe, as to any radical want of virtue in the society of this country. Public spirit is in itself only a mixed or even a secondary motive, to which individuals are led as much from a knowledge that it has its merit with the public, and yields distinction in society, as from the purely virtuous sense of duty. The love of distinction must surely exist as strongly amongst the natives of this country as it is known to do elsewhere, and there is no reason why it should not be made to have as much influence on their actions.

" Only, therefore, let disinterested efforts to improve the moral condition of society not be without their reward, and the spirit to afford them will not be wanting. I am, indeed, clearly of opinion, that if it be an object with our government to obtain the co-operation of society, we can only do so by rendering such a course the obvious road through which its leading members may hope to arrive at distinction, or at least to obtain some advantages gratifying to their ambition or vanity. If our system has hitherto failed in obtaining co-operation,

Appendix, No. 2.

(1.) Letter from the *Bengal* Government, 22 Feb. 1827.

co-operation, it has only been from its not having yet been a part of it to attempt this mode of accomplishing the object.

" Our government has had frequent occasions to be sensible that it has itself experienced, even from the class of landholders, a disposition to afford the most active and zealous support, to submit to sacrifices, and even to risk life in its service, whenever adequate occasion has required it, and whenever the individuals have felt convinced that such a line of conduct would not be without an acknowledgment of its merit with us. With the whole power and influence of government at command, our means of gratifying their ambition and vanity are unlimited; so that whenever such conduct has come to our notice, it has always been amply rewarded, and it is in consequence of the hope of obtaining similar flattering remunerations excited by former examples of our gratitude, that on every occasion of foreign invasion, or even of alarm, there will always be found even in the race of landholders, which appears to be almost universally described as wanting in public spirit, individuals who seek to deserve well of us by their activity and voluntary exertions.

" On such occasions, no one would think of proposing coercion as a means of exciting this spirit in our favour. But the same principles apply to the co-operation we wish to excite in smaller matters; indeed the fear of punishment has as little influence on the minds of this class of our subjects in one case, as in the other, for in neither could the charge of having pursued a contrary course be ever brought to the proof.

" Since, therefore, it is conceived impossible that any efforts for the further improvement of the police and moral condition of the society should be successful, unless the co-operation and support of the society can be obtained, through the means of those possessing influence in it from their situation; and since we cannot hope to excite such a spirit in this class without holding it forth to them as the means of rising to distinction in the society, and of procuring those objects so gratifying to their ambition and vanity which our government has the means of bestowing; it remains only to inquire what is the nature of the means, and what the mode in which they may be best applied to the attainment of the object.

" From the peculiar structure of society in this country, and the habits and notions of those who compose it, it happens, perhaps fortunately for our government, that there is little distinction to be obtained that does not emanate from the government or from its officers. Either direct power, or that which results from influence with those in power, are almost the only objects of consideration, not the offspring of caste and religious prejudice. These are obviously, in every shape, exclusively at our command, and with the power of pecuniary recompense, and of conferring those other marks of favour and distinction, by which vanity is gratified, form the different means we at present possess of binding the several classes of society to us, by the hope of reward in the acquisition of their respective objects of desire. The several methods in which these might be applied to the purpose of exciting in the society a disposition to forward our views, and the degrees of operation they might be brought to have on every class, have never been sufficiently considered. Indeed, as far as I can see, it has been but very little an object of inquiry. Our magistrates appear scarcely sensible of the force of the engine they possess. I should wish to infuse amongst them the disposition to have more frequent recourse to it, and to endeavour to move the society to co-operate with them by its means.

" It is quite unnecessary that the name or influence of government should be brought immediately into operation on the society, in cases of such trivial moment as those, by which the amendments of our police could be effected, must necessarily be; were government to confer a khilaut, or even to address its thanks direct to every zemindar who might show activity in aid of the police whenever a theft might occur, it would justly subject itself to ridicule, and lower in the eyes of the society the value of a distinction made the equivalent of so paltry a service. The individual would have been sufficiently gratified by a sense that the magistrate saw his deserts, and he would have been highly flattered by the slightest public testimony of his personal approbation. It is not by regulations, general orders, or other public acts of government, that any thing could be effected in the excitement of the desired spirit of co-operation from the society, with a view to its moral improvement; every thing must be left to the discretion of our public officers; and we can only point out generally the line of conduct we conceive it most expedient for them to pursue.

" No one can doubt the power possessed by our judicial officers of exciting the society to what they may wish, who sees the degree of consideration paid to every one reported to possess influence with them, who observes the avidity with which even access is sought, and remarks the consequence resulting from a personal confidential communication. In nothing which passes, not even in the form of address of a purwannah, or a process of court, is the magistrate without the power of gratifying those with whom he may have dealings. Indeed, his means of gratification are only equalled by his means of annoyance. All that is necessary is, that every thing he does should be done personally by himself, so that no one may suppose he owes a favour to other than the magistrate, or be able to fancy he can trace an ungracious act to the private malice of the umlah which might be meant to express the magistrate's personal displeasure.

" On the whole, therefore, as far as my observation has yet gone, I conceive the system at present in being to be as complete as any I have yet seen proposed; nor do I think that even in the minor departments of it, the alterations which have been suggested would be attended with substantial advantage. The magistrate, with his thannahdary establishment, is indispensable to the exercise of an adequate control over the zemindars and native

police institutions, who without it would, there can be little doubt, begin by suppressing information, and end by introducing the confusion of a state in which every one seeks to right and revenge himself. The subsidiary chowkeedary police is only adapted to cities and large towns, the residence of European officers, in which no similar institutions may have before been in existence. The mofussil police institutions must be left as they are, controlled through the influence of the fear of punishment by the thannahdary establishments, and if it be sought to render them more efficient, it must be through the society of their joint masters.

"We must seek to gain the society, not by coercion or the enactment of further penalties, but through the means of those possessing influence in it, who are to be gained by holding forth to them the ample means of reward in the gratification of their ambition and vanity which government and its officers have exclusively at command. But for the detailed execution of this, we must depend upon the personal conduct and discretion of our public officers, for government can only point out to them generally the nature of the object to be gained, and of the means by which it is proposed to effect it, and perhaps suggest the general mode of their application."

175. Before concluding this branch of the subject, it will be convenient to notice some enactments which have taken place since the receipt of your honourable Court's Despatch connected with the police establishments, and their more efficient superintendence.

176. By Regulation XVII. 1816, provision has been made for the occasional revision of all police and gaol establishments, by the superintendents of police, with a view to such reduction of expenses as might be found practicable, and they were enjoined to furnish an annual statement to government of all establishments of that description, as well as of the subsidiary police establishments maintained in the cities and principal towns.

177. To enable the magistrates to exercise a more efficient control over the cotwals, darogahs, and other officers employed on police duties, or in guarding the gaols, the magistrates have been empowered to nominate, appoint, remove, suspend or dismiss those officers (subject under certain restrictions to appeal to the courts of circuit) without previous reference to superior authority, and they have been vested with the authority of distributing a proportion of their police establishments at such places as might from time to time appear expedient.

178. The superintendents of police were at the same time directed to perform certain duties hitherto appertaining to the higher courts; they were made the channel of correspondence with the magistrates in regard to the reduction, enlargement and distribution of the police establishments, the site and limits of thannah jurisdictions, the escape of prisoners, the granting rewards for meritorious services in aid of the police, the repairs and construction of roads, bridges, seraees and kuttras, the employment of convicts, and the state of public works.

179. In Regulation XX. 1817, were embodied, with extensive additions and amendments, the whole of the rules regarding the duties of darogahs and other officers of police: these rules were clearly arranged under proper heads, and the regulation in question has proved eminently useful in directing the conduct of those officers.

180. The same regulation declared the proprietors and farmers of land, their agents, the munduls, putwarries, and other heads of villages responsible, in addition to what was before required from them, for reporting unnatural or suspicious deaths, for affording due information to the police on some other points, and for giving their aid to the processes of the magistrates and police officers.

181. A reference to the details of this regulation will satisfy your honourable Court of the care which has been taken to guard against the abuses of most frequent occurrence on the part of the police officers, some of which are noticed in your honourable Court's Despatch; we allude to those especially which refer to the employment of professional goindahs, the holding of inquests, the search for stolen property, the receiving of confessions, the treatment of prisoners, and the registry and superintendence of village watchmen. An abstract of the contents has been annexed to the printed copies of the regulation, and those copies have been widely circulated to enable the community at large to ascertain with facility the powers, duties, and responsibility of the thannah officers, of the landholders, farmers and their agents, and of the munduls and village watchmen in all matters connected with the police.

182. By section 5, Regulation XVIII. 1805, and section 17, Regulation XIV. 1807, the government is enabled in all instances to adapt the local police to any circumstances which may appear to require a special deviation from the general rules, and to entrust the charge of it to any landholder, farmer or manager of land, instead of to police darogahs.

183. The principle is more especially applicable to extensive estates, comprising tracts of hilly or jungly land, thinly populated, and on the frontier of our territories, but its success even in these cases must mainly depend on the character and disposition of the person exercising it.

184. The government, however, has not hesitated to authorize special deviations from the general system of police, wherever the character and habits of the population, or local peculiarities, or even temporary considerations render such measures desirable. The arrangement adopted in regard to the Garrows, and other rude tribes on the north-eastern frontier of Rungpore, to the mountaineers of Boglepore, to various estates in the Jungle Mehals,

Mehals, Ramghur, Cuttack, and the north-eastern frontier of Moradabad, might, amongst other instances, be adduced in proof of this disposition on the part of the government. Appendix, No. 2.

185. Without adverting to the arguments urged against the measure of conferring on collectors the powers of magistrates, on the ground of its being a very extensive innovation on a long established system, and a violation of the principle on which the civil administration framed by Lord Cornwallis in 1793 was regulated, we shall notice the practical objections which have been most generally urged against it, and which are thus summed up by the court of Sudder Dewanny Adawlut, and Nizamut Adawlut: (1.) Letter from the *Bengal* Government, 22 Feb. 1827.

" In the first place, it appears impossible that the collectors of the extensive districts in the Ceded and Conquered Provinces, whose time is already entirely occupied by their present duties, and must continue to be so till the formation of a permanent settlement of the land revenue, should undertake the additional functions of magistrate, and superintendent of police.

" 2dly. The same objection is applicable to the province of Benares, where there is only one collector for the whole province, including the jurisdictions of three magistrates and a joint magistrate stationed at Ghazeepore.

" 3dly. It may likewise be applied to several collectorships in the Lower Provinces, which include the jurisdictions of two or more magistrates and joint magistrates.*

" 4thly. It may be questioned whether any of the collectors in the Lower Provinces could perform the whole of the additional duties proposed to be transferred to them, without neglecting in some degree their present trusts, which extend to various other duties besides the collection of the land revenue; and in the due discharge of which the public interests, as well as those of individuals, are materially concerned.

* Burdwan, Dacca, Dinagepore, Moorshedabad, Mymensing, Rungpore, Twenty-four Pergunnahs, Bhaugulpore, Cuttack.

" 5thly. So large an addition of duty and responsibility to the office of a collector could not be consistently made without a proportionate increase of salary, which, with the necessity of some additional collectors, must occasion a considerable annual expense.

" 6thly. Many of the present collectors not having been employed in the judicial department, it cannot be expected that the whole of them should be so competent as the present magistrates to maintain a vigorous police, and administer justice in criminal cases.

" 7thly. The division of authorities, under the existing system of internal administration, having a tendency to raise the weight and influence of the judge and magistrate above those of the collector, it may be presumed that, as asserted by some of the judicial officers, the zillah and city judges and magistrates now possess more official power to obtain the co-operation of the landholders and other inhabitants of their respective jurisdictions, in promoting the objects of a good police, than would be possessed by the collectors, if invested with the charge of that department.

" 8thly. If the collectors were required to perform the whole of the duties of the present magistrates, they would be seldom able to leave their fixed stations, and in this case one of the principal advantages expected from the proposed transfer would be lost; whilst at the same time they might be often prevented by their judicial duties from making local inquiries called for by their proper functions in the revenue department.

" 9thly. If to avoid this inconvenience, or with any other view, the police only were placed under the collectors, leaving the judicial duties of the magistrate as they now are, it might be apprehended that, on the one hand, the collector would want authority to maintain an effectual control over the native officers of police, and over those who are required to assist them in preventing the commission of criminal offences, as well as in discovering and apprehending offenders; whilst on the other hand the magistrates, if deprived of their present authority over the police officers, would be impeded in following up the traces to guilt, which are often imperfectly indicated by the original inquiry of a police officer; and might also experience many other obstacles to the prompt administration of criminal justice, which is now essentially promoted by the facilities of local inquiry, service of process, and numerous other subsidiary means arising out of the immediate subordination of the police officers to the zillah and city magistrates.

" 10thly. In the regulation enacted at Fort St. George, ' For the establishment of a general system of Police,'* under the instructions of the Honourable Court of Directors, it has been judged necessary to provide† that ' no order shall be issued to any police officer excepting by the magistrate of the Zillah (viz. the collector acting in that capacity,) or his assistants.' But we apprehend that a similar provision at this Presidency would operate to a serious hindrance of criminal justice, unless the collectors, as magistrates, could be supposed to make so full an investigation of all criminal cases brought before them, as to preclude the necessity of further evidence, or the issue of any further orders to the police officers, in trials before the judge of the local criminal court. At the same time it must be acknowledged that there would be great risk of collision, and consequent detriment to the public service, if the police officers were made subordinate to two independent authorities, viz. the collector, in his capacity of magistrate, and a distinct judge of the Zillah Criminal Court.

* Reg. XI. 1816.
† Section 45.

" 11thly. The objection last mentioned is applicable, though in a less degree, to the necessary subordination of the collector, as magistrate, to the superior criminal courts; whilst in his principal capacity he must continue subject to the control of the superior authorities in the revenue department.

 " 12thly. Without

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"12thly. Without supposing that the collectors would personally abuse the powers of magistrate in charge of the police, it may be reasonably doubted whether the tehseeldars and other native officers acting under them, whom it is proposed to employ in the police, would not sometimes pervert the authority vested in them for public purposes, to the means of promoting a private end; or at least to facilitate the collection of rents and revenues by other modes of coercion than those authorised in the regulations."

186. The force of the second and third of these objections has been diminished by local arrangements adopted since the date of the report from which the foregoing quotation is made; but we feel that great importance is justly ascribed to those which refer to the collector's want of leisure to perform, in addition to his own duties, the whole of those now attached to the office of magistrate; to the inconvenience and mischief likely to result from the separation of the charge of the police from the power now exercised by our magistrates in the administration of criminal justice; and to the comparative unfitness of very many of the revenue officers in the Lower Provinces for the important trust proposed to be conferred upon them.

187. The Board of Commissioners in the Western Provinces have stated, that whatever advantage or facilities may be contemplated in the establishment of an efficient police, from vesting the executive duties of it in the revenue authorities, no collector can bestow the necessary attention to its details while the fluctuations of the territorial assessment, under the constant recurrence of short settlements, continue to call for so large a portion of his time. The Board have further remarked, "That if the transfer of the magisterial functions to the collector should imply a re-establishment of the subordinate superintendence of the police in the tehseeldars, as the intermediate channels of his communications with the landholders, many objections which were exemplified in the former system of tehseeldarree police may be stated against this measure, and if the proposition for vesting the landholders with the charge of the police within their respective estates is intended to supersede the present establishment of police darogahs and thannah burkundauzes, it might be apprehended that such a measure would be at any rate premature, until the village police of the zemindars shall be properly organized, and perhaps injudicious in foregoing an agency, which, however imperfect it may still be, is not wholly inefficient, for an experiment of doubtful result."

188. The members of the Board of Revenue in the Lower Provinces have stated their sentiments in regard to the proposed transfer of magisterial authority to the collectors, in separate minutes.

189. Mr. Salmon has observed as follows: "It is with hesitation and very considerable deference that I should presume to offer my opinion on arrangements connected with police or with criminal justice; but with reference to the question of a collector's competence and superior qualifications to discharge the duties of a magistrate, I do not scruple to aver that neither his habits, his experience, or the nature of his functions, as a revenue officer, would serve to render him a preferable person. The division of the revenue and judicial lines has deprived all the collectors of the present day of the opportunities of learning the duties of a magistrate in the first instance, and of improving in them afterwards by practice; and I imagine it will be admitted that there is no sort of public office where the advantages of experience and practice are more essential. I do not mean that any length of time is absolutely necessary for the purpose, but that to profit by such experience, a man's occupation should not be twofold, and totally distinct in their nature. If a collector were to become a magistrate, he would either turn out a good police officer and a bad collector, or a bad police officer and a good collector; it is probable he would continue to devote his attention to that branch in which he feels himself best versed. The acts both of a collector in *certain* cases, and of a magistrate in *all*, should be prompt; delays would be frequently attended with loss in the one department, and would be irremediably pernicious in the other; yet I imagine if both offices were united in the same person, delays would certainly occur in one or other. Very deep research or maturity of judgment are not essential qualities in a magistrate; but quickness of intelligence, activity both of mind and body, an aptitude of tracing events and of discerning particular circumstances, and a dexterity of examination of persons (which can only be acquired by practice,) are almost indispensable. The habits and routine of a collector's duty are not of such a nature; regularity and accuracy of accounts, a knowledge of the description and validity of landed tenures, and of forms and usages; in short, an intimate acquaintance with landed possessions and their varieties, and with local peculiarities, and numerous other avocations of a miscellaneous nature, form the principal part of a collector's duty. It will be acknowledged that these are totally distinct from the qualities requisite for a magistrate, though they are in very many points closely connected with matters of civil justice. Indeed I have generally been of opinion, that to be a good judge, a man should first have been a collector; and to be a good collector, a man should have had some experience in the mode of cognizance and of judicial investigation, which, under the former system of the service, he would have had as registrar to a zillah judge."

190. Mr. Buller is not aware of any other objection to the proposed arrangement, than the want of leisure of the collectors, and the necessity, if the transfer be made, of effecting it gradually, and of putting the office of collector on a more respectable footing.

191. The remarks of the late Mr. John Shakespear, paragraphs 127 to 135 of his report dated the 16th December 1816, are also deserving of your honourable Court's attention; but we are unwilling to lengthen this letter by extracting them.

192. In

192. In the review which we have taken in a preceding part of this Despatch, of the nature and extent of the duties devolving upon the collectors, especially in those districts in which a permanent settlement has not yet been effected, your honourable Court will, we trust, see sufficient reason to satisfy you that such an arrangement is at present absolutely impracticable in those territories; the services too of the revenue authorities have, since the date of your Despatch, been generally rendered extensively available in the discharge of various duties which would otherwise devolve upon the judicial officers; and so far therefore as the latter object is concerned, the arrangements already adopted or contemplated by this government will in no inconsiderable degree meet the views of your honourable Court. Unless we could restore the ancient institutions of the village communities, and could employ the heads of villages, the farmers, landholders or their agents, as officers of police, little would be gained, and much would be sacrificed by making the collectors generally magistrates; and your honourable Court have indeed viewed the adoption of the former as necessary to, or intimately connected with, the success of the latter arrangement. Of the impracticability of accomplishing the former, we have already fully stated our views.

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193. But although we are decidedly adverse to any general introduction of such a plan, we are of opinion that considerations connected with local circumstances, the character of individual officers, and the comparative pressure of business on the judicial and revenue officers, may render it expedient in particular instances to invest the collector with the powers of a magistrate.

194. Regulation IV. of 1821, has fully provided for such an arrangement whenever Government may see fit to adopt it. The collectors of Rungpore, Ramghur and the Jungle Mehals were some time ago empowered to act as magistrates, and the junior officers, who in the character of sub-collectors, have been vested with revenue duties in particular pergunnahs or portions of districts at a distance from the sudder station, have in general been empowered to act as joint magistrates also within such pergunnahs.

195. This united authority is now exercised by the sub-collectors of Khoordah and Balasore in Cuttack, by the sub-collector Pilleebheet in Bareilly, and by other officers in Moradabad, Etawah, Allighur, Meerut and Bundlecund, and the measure is recommended by various considerations.

196. The local jurisdiction is seldom so extensive as to preclude the efficient discharge of the duties of both departments; the officers themselves are generally selected for such trusts from their activity and intelligence, and have in most instances had some judicial experience.

197. They relieve the zillah magistrate from a portion of his duties; the prosecutors, prisoners and witnesses are subjected to much less inconvenience than they would suffer if compelled to proceed to the more distant station of the zillah courts; the conduct of the police officers is subjected to more vigilant and close superintendence; and the exertions of the zemindars and village officers in aid of the police can be encouraged or enforced more promptly and effectually.

198. Your honourable Court is aware that in the Delhi territories, in Ajmere, in the Saugor and Nerbudda territories, in Kumaoon, in the zillah of Ramghur, and in the persons of the commissioners of Cuttack and the north-eastern frontier of Rungpore, the superintendence of revenue duties, of the police, and of the civil and criminal justice, is vested in the same hands.

199. Your honourable Court is also aware that the rules restricting the appointment of individuals to judicial offices, unless they should have been previously employed in the judicial departments for a specific period, have been rescinded; that the students in the college of Fort William, so soon as they are pronounced qualified for the public service, and are appointed to zillah stations, are nominated assistants both to the magistrate and collector of such zillah; and that by Regulation V. 1825, the Government is empowered to vest, with certain exceptions, the jurisdiction and powers of a civil judge and of a collector of revenue in the hands of the same officer, whenever and so long as such an arrangement may for special purposes appear expedient.

Sect. 2, Reg. XXV. 1814. Sect. 8, Reg. IV. 1823.

200. The foregoing explanations will satisfy your honourable Court that we are not influenced by abstract or theoretical objections in discouraging the transfer to the collectors of the powers of magistrate, but by the practical difficulties which oppose any general adoption of the measure; and your honourable Court may be assured that we shall not hesitate to sanction the union of those powers in future instances in which the character of individuals, the state of public business, and local considerations may show that it is calculated to prove beneficial to the public interests.

201. In our letter to your honourable Court from this department, dated the 3d July 1823, and in the documents which accompanied it, the grounds on which we had deemed it expedient to appoint separate magistrates to the districts of Hooghly, Jessore, Nuddeah, Purneah and Tirhoot, and to relieve the civil judges of those districts from all charge of the police and of the administration of criminal justice, are fully explained; and we are happy to say, that the practical advantages which have resulted from the experiment, have fully realized the expectations which we had formed. The office of judge and magistrate of Hooghly has for some time past been united again in the hands of one individual, not because a continuation of the same system in that district was not exceedingly desirable, but because the improved state of the police and the diminution of arrears in the civil court rendered its

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further duration less indispensable there than in other districts. Similar results have been obtained in the districts of Nuddeah and Jessore, and we hope to dispense with the services of a separate magistrate in those districts in the course of the ensuing year.

202. We solicit the particular attention of your honourable Court to the measure above adverted to, as one which is, in our judgment, more than any other, calculated to correct the most prominent defects in the management of the police, and in the administration of civil and criminal justice, and which we should earnestly wish to see as generally adopted as possible.

203. The measure comes recommended by the high authority of the Marquess of Hastings, who, in suggesting the separation of the offices of judge and magistrate, has observed, that they appear to be nearly incompatible; that the duties of a judge necessarily confine him to his court-house, while those of a magistrate can never be so properly executed as while he is engaged in a personal visit to every part of his district; that the administration of civil justice requires the patient and cool deliberation of mature age, while the preservation of the peace of a district calls for all the active energy of early youth; that a judge should perhaps be abstracted from all private converse with the natives, but that a magistrate must maintain a most intimate communication with them, and carry his researches into the utmost recesses of their privacy.

204. The court of Sudder Dewanny Adawlut have also adverted to the same subject, in the following terms:

"Without entering upon a full discussion of the general question, whether, if any new division of European authorities in the zillahs and cities be required, a separation of the offices of judge and magistrate, without uniting either to that of collector, would not be the most useful and expedient; we shall here notice only the following advantages, as evidently connected with such an arrangement.

"First, The magistrate and the civil judge respectively having no other duties to call for their time and attention, excepting those of their proper department, the functions of each would naturally be discharged with much greater promptitude and regularity than can be expected when daily and exigent duties press equally for their exclusive occupation in two distinct branches of the public service. Secondly, The judges and registrars of the civil courts, having no other duty to perform, might be expected to keep up the business of those courts without arrear; to maintain an efficient control over the sudder aumeens and moonsiffs acting under them; and to examine personally witnesses whose testimony is required, either by themselves or by the superior courts, instead of employing native agency for that purpose, as now unavoidably permitted by the regulations. Thirdly, The magistrates and their assistants being disengaged from the business of the civil courts, and being consequently able to devote the whole of their time to the duties of police and criminal justice, the most important benefits in each of these departments might be expected to result. The magistrate might occasionally visit the police thannahs within his jurisdiction, or depute his assistant for that purpose. He would also be at liberty to give much of his time to the reports of his police officers, and to an active superintendence and direction of the police in all its details, which could not fail of proving highly beneficial. He would at the same time, with the aid of his assistant, be able to investigate criminal charges of magnitude, as well as those of an inferior degree, to a much greater extent than he can at present, occupied as he is during a large portion of every week with the business of the civil court. A more speedy and satisfactory administration of justice, in all cases within the cognizance of the magistrate, would not be the only good consequence. He would further be able to try deliberately, and might be entrusted to determine, with or without the assistance of his law officer, many charges which are now left to the trial and decision of the courts of circuit."

205. The late Mr. Adam's sentiments in favour of this plan are recorded in his minute of the 12th of June 1823, which formed an enclosure in our Despatch to your honourable Court of the 3d July 1823.

206. It would be easy to multiply quotations from others of our public functionaries both on this establishment and that of Fort St. George, to the same effect; but we shall confine ourselves to the following extract from Mr. Henry Shakespeare's police report for the year 1819, recorded on our proceedings of the 24th November 1820.

"I trust I shall be forgiven if I enlarge a little upon this subject. Without asserting it to be the case in every district, I think I may assume the position, generally speaking, as undeniable, that an officer holding the situation of a judge and magistrate is so overwhelmed with business, that, as a judge, he has no leisure to see the greatest part of his own judgments and those of the superior courts duly carried into execution; nor, as a magistrate, has he leisure to control with sufficient energy the conduct of his police officers, or to obtain from the higher orders of the community that aid and co-operation in the performance of his functions which he is legally entitled to expect from them. If this is admitted, and I believe it cannot be denied, such want of leisure in the one case must be fatal to the efficiency of civil justice, and in the other to the efficiency of the police. Other causes of a similar tendency may no doubt be urged; but these appear to me the most prominent, and it will be easy to show that they are fully adequate to produce those effects.

"It is obvious that, unless duly enforced, the decrees of the zillah courts, and also of the inferior and superior tribunals, are nothing more than the grave opinions of respectable individuals, which, so far as redress is afforded, might as well not have been delivered; the party seeking

seeking it had better have kept back his claim, and the judge spared himself the trouble of investigating it. It is unnecessary to dwell on this subject: I have given my opinion upon it freely, because I consider the non-execution of decrees as the greatest defect in our civil code; and, as the experience of many years in the judicial line of the service has pressed it upon my attention in the zillahs where I have served, I cannot doubt that it prevails nearly in an equal degree in all. It is not, however, long since the Sudder Dewanny Adawlut required statements from every district of the number of unexecuted decrees, and the result will show how far my opinion upon the subject is correct.

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" Under the present constitution of the office, a magistrate cannot be absent from his station (except in the vacations, when the civil court is closed,) without entirely neglecting his duties as a judge. Few therefore can be expected to visit the interior of their districts, or to know any thing of the state of the country and the condition of the people, of the characters of the zemindars, or the conduct of the subordinate officers of police, excepting what they may learn privately or in the public discharge of their official duties; but how polluted the source of such information must often be, and how totally insufficient for any practical purposes of improvement in the one, or control over the other, is self-evident.

" Unless grievously ill used, few in the lower classes will voluntarily come forward, either to complain against their zemindar or the police darogah in whose jurisdiction they reside. The personal inconvenience attending absence from home, the tardiness of proceedings in criminal cases of inferior moment, and the risk of the result, must always operate to discourage them from seeking redress at the zillah stations.

" The case would be different if the magistrate was occasionally in the habit of residing in the interior of his district. He would then see what the actual state of the people was; he would hear and redress their grievances on the spot; the darogah and the zemindar, anticipating his visit, would be guarded in the exercise of their power; they would be instructed in the co-operation expected from them in the management and aid of the police, which under such supervision could not fail to be more efficient, and far more popular than it is at present. The praise or censure which the magistrate in these visits would frequently find occasion to express of the conduct of the more opulent classes, the marks of distinction, however trifling, which he might bestow on those who appeared to seek the welfare of their tenants, and not merely the utmost farthing that could be exacted from them, and the opportunities thus given of inquiring into their condition, their customs and village institutions, would persuade the people that we were really interested about them, and give to our government a character which at present it certainly does not possess.

" If the zemindars could be compelled to take an active part in support of the police of the country, the most beneficial results might be expected. By the regulations* in force, they and their servants are bound by severe penalties to give information of all crimes of importance, of the resort of all known criminals to their estates, and in short, (which added to the above, may be construed to embrace every kind of aid which the police can possibly require from them,)† to afford every assistance in their power towards the apprehension of thieves and robbers of all descriptions. It would be difficult to point out what more could be required from them, unless it were to hold local inquiries, and submit the result of them on paper to the magistrate.

* Vide Reg. IX. 1808.
— VI. 1810.
— I. 1811.
— III. 1812.
— VIII. 1814.
s. 33, Reg. XX. 1817.

†Vide s. 3, Reg. XXII.

" The defect is that these rules are not systematically acted upon, so as to become the known and received law of the land. In some districts (and they are the best managed,) they are enforced in all matters connected with crimes of magnitude, such as murder, gang robbery, and serious highway robberies; in other districts a greater laxity is observable; whilst in all, little is required from the zemindars on the occurrence of inferior crimes, which although perhaps of small importance in the eyes of the magistrate, are to the community at large a source of serious grievance, and which, under more active control, a zemindar and his servants might in some measure be able to check. That they do not exert themselves, may, I think, be traced (as I have before observed) to want of leisure on the part of the magistrates to exact from them those aids in the administration of the police which they have a right to demand at their hands.

" The remedy for all these defects is, the separation of the offices of judge and magistrate; exonerating the latter from all concern in civil business, and making it his sole occupation to watch over the police of his district, to administer criminal justice (to a certain extent,) and to exercise a prompt and vigilant control over his police officers, the zemindars, and other people of influence in his district, for the suppression of crime and the amelioration of the condition of the lower orders.

" Looking at the state of the different departments in the service, the office of magistrate will perhaps be more efficiently, and with less violence to long established usage, be filled by those at present holding the situations of registrars, than by any other class of officers in the service. Many might be selected of tried experience, who have on several occasions already exercised, with satisfaction to the government, the powers now proposed to be permanently vested in them. The loss of their services in the administration of civil justice may be easily provided for, and the increase of their salaries, which the arrangement might involve, would be lightly felt when compared with the importance of the objects obtained."

207. If the principle of the arrangement which we are now advocating, and which is supported by the recommendation of so many of your best informed public officers, should, as we earnestly hope it may, meet the sanction of your honourable Court, we should propose to introduce it at present only in those districts where the pressure of civil and criminal business may render it more particularly necessary, and to extend it gradually as circumstances might suggest.

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208. We should select for the office of magistrate those joint magistrates and senior registrars whose experience and talents might point them out as properly qualified for the trust; and we imagine that in the districts in which the offices of judge and magistrate might be vested in distinct hands, the services of a registrar might ordinarily be dispensed with; more especially if it shall be determined to augment, under special circumstances, the amount of suit cognizable by the sudder aumeens.

209. Under this arrangement, the European officers of a zillah would be the judge, the collector, the magistrate, and either a registrar or one assistant, whose services might be rendered available both to the collector and to the magistrate as at present. The judge would be relieved from the chief burthen of summary suits connected with rent, &c. by their transfer to the collector, and from all business connected with the police and the administration of criminal justice, by its transfer to the magistrate.

210. He would thus be enabled to devote nearly his whole time to the investigation of regular suits and appeals, to the enforcement of decrees, to the vigilant control of the sudder aumeens and moonsiffs, while the powers of the two latter classes of functionaries might safely be extended to the trial of suits of a higher amount or value than those now cognizable by them.

211. The collector, in addition to his ordinary revenue functions and to the various miscellaneous duties devolving upon him, would take cognizance of almost all the summary suits with which our civil courts are now burthened.

212. The magistrate would, in matters of police and criminal justice, exercise the powers now vested in those officers, he would relieve the judge from the trial of summary suits connected with forcible dispossession, he would be able to devote a portion of his time to the visiting of the interior of his district, to the correction of abuses on the part of the police officers, and to the encouragement of the zemindars and others possessing local influence, to render their aid towards the improvement of the police.

213. We feel satisfied that under such a system every branch of internal administration would be invigorated and improved, and that the labour of the European functionaries would, by such a distribution and division of power, be employed with infinitely more benefit to the interests of the community and to the credit of your administration, than by any other plan which could be devised short of the multiplication of that class of officers, and of the extensive subdivision of the large districts now entrusted to them.

214. We apprehend that even at Madras the charge of the police has, in many instances, been practically transferred to one of the collector's assistants, by which in reality a division of authority, nearly similar to that above proposed, is established.

215. We now proceed to that part of your honourable Court's letter which relates to the Administration of Criminal Justice; and it will be convenient to include under this head, rather than under the head of Police, the remarks made by your honourable Court in paragraphs 148 to 163 of your Despatch, in regard to the inadequacy of the means provided for the cognizance of petty offences and misdemeanors coming under the head of calumny, abusive language, slight trespass, inconsiderable assaults and petty thefts, as well as of complaints regarding adultery, fornication and rape, which are cognizable in the foujdary department.

216. On this subject your honourable Court has observed as follows:

"The only effectual way of affording redress for such acts, and of restraining the perpetration of them, as well as of discouraging and preventing false and unjustifiable prosecutions in cases of that sort, is by the introduction of a much more numerous and extensive agency than now exists for the trial of such offences, or than can be furnished from the European line of our service. To our native subjects, we must look for the supply of the deficiency so severely felt. We have long employed them in the administration of civil justice in its minor concerns; and the reasons are equally cogent why we should in the same manner avail ourselves of their instrumentality in the affairs of criminal judicature. The reasons in both cases are founded *in the necessity of things* in a foreign dominion like India; but we must, while we rest the principle on that foundation, at the same time express our conviction that, abstracted from this view of the subject, there are considerations of general policy which would strongly recommend a liberal admixture of native with European authority in the magisterial department of police, as in other departments of civil administration.

"We therefore wish you to consider in what manner this can most unexceptionably be accomplished, and particularly whether the native commissioners of a superior order, which we have proposed to establish for the administration of civil justice, might not also be authorized and required to act in the former capacity."

217. It is unnecessary for us to enter on this occasion into any explanation of the motives which induced the government to pass Regulation IX. of 1807, VII. of 1811, and III. of 1812, prohibiting the police darogahs from hearing petty complaints, and imposing restraints on the institution of frivolous, malicious and unfounded charges of the nature above indicated before the magistrate.

218. We are satisfied that to revive those powers, whether in the hands of the darogahs or of the moonsiffs, would again lead to extensive abuses which could not be corrected by the magistrate, and to disturb rather than to promote the peace and harmony of the village communities.

219. The records of our courts show with what eagerness the most trifling verbal abuse, or

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or the most trivial blow which could be construed into an assault, were made the cause of appeal to judicial interference, and the heart-burnings, enmities and mischiefs to which such complaints led. It appears to us to be practically wise and expedient to impose restraints on the facility of bringing such cases under judicial cognizance, so as to give time for the subsiding of angry emotions, and to prevent that permanent hostility between parties, which litigation, even on the most petty questions, so generally creates between natives of this country.

220. The inconvenience actually produced by the want of speedy redress for abusive language, calumny and inconsiderable assaults, is, we believe, not seriously felt in this country; and we cannot think it desirable that numerous tribunals should be accessible in every district for the cognizance of such cases. We apprehend that the chief object of your honourable Court has been already sufficiently provided for by the power vested in the magistrates to refer for trial to the Hindoo and Mahomedan law officers of the courts, and to the higher class of sudder aumeens, complaints or charges for petty offences, such as abusive language, calumny, inconsiderable assaults or affrays, and all charges of petty thefts, when unattended with aggravating circumstances.

221. In regard to these cases, the law officers and sudder aumeens are vested with the same powers as those conferred on assistants to the magistrate. The decisions of the sudder aumeens are open to review by the magistrate, if appealed within the period of one month. The sudder aumeens are also required to submit a monthly statement, showing the manner in which the cases referred to them may have been disposed of, in order that the magistrates may have the means of noticing and correcting any irregularities in their proceedings.

222. The situation of the sudder aumeens has been made more respectable, as well in point of salary as in other respects; their proceedings are carried on under the immediate eye of the magistrate; and as far as past experience enables us to judge, we think that there is little danger of any serious or general abuse of the power vested in them, that the services of the sudder aumeens in this department will be useful and efficient, and that such petty complaints as may be brought forward will be disposed of with promptitude.

223. In regard to cases of adultery and fornication, they are very rarely brought forward as criminal complaints by the natives of this country, nor does it appear expedient to encourage the more frequent resort of complainants on these grounds.

224. Such questions (as before noticed) are more properly cognizable by punchayets, or heads of caste, than by our judicial tribunals; and where redress is sought at all, it is generally sought by reference to the institution or individuals above designated.

225. Rape, on the contrary, is a crime of so deep a dye, as to bring it within the cognizance of the highest criminal courts; and we are of opinion, that the provisions of section 6, Regulation XVII. 1817, are sufficient for the purpose.

226. As connected with this subject, we beg in this place to quote the preamble to Regulation VII. of 1819, by which provision has been made for the speedy cognizance and punishment of certain misdemeanors therein indicated:

"It has been represented to government, that in some parts of the country, and especially in cities and large towns, the peace and happiness of families are often destroyed by evil-disposed persons, chiefly women, who are employed to entice and take away the wives or female children of the fixed inhabitants from their respective houses, for the purpose of rendering them prostitutes or concubines, or of otherwise unlawfully disposing of them, to their serious detriment, and to the injury of their husbands and parents. It has also been stated, that great distress to women and children is frequently occasioned by husbands and fathers deserting their families, and neglecting to provide for their support, although possessing the means of maintaining them; as well as from a similar neglect by the fathers of illegitimate offspring, in neither providing for the support of such offspring, or their mothers. The speedy cognizance and punishment of such misdemeanors by the zillah and city magistrates and joint magistrates, subject to the regular control of the courts of circuit, appear to be the most efficient means of preventing or checking the culpable practices above described. It is further judged expedient to empower the magistrates and joint magistrates to take cognizance of certain misdemeanors committed by workmen and domestic servants, in cases not expressly provided for by any existing regulation, at the same time maintaining the just claims of workmen and servants upon their respective employers; the following rules," &c. &c.

227. In paragraphs 167 and 168 of your Despatch, after adverting to the prejudicial consequences which result from delay in the administration of criminal justice, your honourable Court have suggested that the collector, in his future capacity of magistrate, should try and determine all cases now cognizable by the zillah magistrates; that the judge, in his capacity of criminal judge, should be vested with judicial power, in cases of greater magnitude not being of a capital nature; that the zillah judge should be aided by the mouluvee and pundit of his court, should proceed invariably on the trial immediately on the magistrate's commitments, and that in cases of a certain magnitude his sentences should undergo the revision of the court of circuit; that in the principal cities the functions of judge and magistrate be continued in the hands of the same person as heretofore, but with the same extended power for the trial of criminal offences as is proposed to be given to the zillah judges.

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228. On the question of transferring the functions of magistrate to the collectors, we have already submitted our sentiments, and the following explanations will show the nature and extent of the powers in the administration of criminal justice, which have been vested in the zillah and city magistrates, in addition to those which they were authorized to exercise at the period when your honourable Court's Despatch was written.

229. The most important of those additional powers were conferred upon the magistrates by Regulation XII. 1818, and the grounds assigned for its enactment are nearly the same as those which are urged by your honourable Court.

230. The preamble to the regulation in question is as follows:

"Whereas, under the existing regulations, the magistrates are not empowered to pass any sentence of punishment upon prisoners who may be charged before them with the offence of breaking into or attempting to break into houses, tents, boats or other places of habitation, or into warehouses or other places used for the custody of property, with an intent to steal, as defined in section 2, Regulation I. 1811, or with the offence of receiving or buying stolen goods, knowing the same to be stolen: And whereas much of the time of the judges of circuit is occupied in investigating these and some other offences, which from their character, and from the circumstances attending their perpetration, do not very frequently demand any severe or exemplary degree of punishment: And whereas the prosecutors and witnesses in such cases are exposed to great distress and inconvenience, in being compelled to attend, not only during the inquiry into such cases before the magistrates, but subsequently during the trial before the court of circuit: And whereas the prisoners themselves in such cases are sometimes subjected to a prolonged detention in custody previously to their trial at the sessions: And whereas some of the inconveniences above noticed will be obviated, and the ends of criminal justice will be more promptly and effectually obtained, by investing the magistrates with certain powers with regard to the trial and punishment of persons charged with and convicted of such offences; the following rules," &c. &c.

231. Under the detailed provisions of this regulation, and the subsequent amendments contained in Regulation IV. 1820, and VI. 1824, the magistrates are empowered to try all prisoners, whether as principals or accomplices, charged before them with the offence of breaking into or attempting to break into a dwelling-house, tent, boat or other place of habitation, or into any warehouse, storehouse or other building or place, used for the custody or preservation of property, either by night or by day, and (except under certain specified circumstances of aggravation, which render it necessary that the prisoners should be committed for trial before the court of circuit,) to sentence prisoners clearly convicted of such offences to imprisonment with hard labour for a period not exceeding two years, and to corporal punishment not exceeding 30 stripes of the rattan.

Section 4, Reg. IV. 1820.

232. Similar powers are vested in the magistrates in the trial of all persons charged with cattle-stealing or with thefts, in which the amount stolen may not exceed 300 rupees, and which may be unattended with certain specified circumstances of aggravation, or with the offence of buying or receiving stolen property knowing it to have been stolen, when not exceeding 300 rupees in amount or value.

233. Convicts or prisoners confined for security or under examination, who may effect their escape from custody without committing any acts of serious personal violence, may also be tried by the magistrate and sentenced to imprisonment, extending either to six months or to two years, according to the circumstances of the case. The rules which had before been established by government, and the nizamut adawlut, for the management of the public gaols, have been formally recognized by Regulation XIV. 1816, and the powers of the magistrates in maintaining good order and discipline in the gaols have been defined by that regulation.

234. By Regulation I. 1822, the magistrates are empowered to take cognizance of cases of affray unattended with homicide, severe wounding, or other aggravating circumstances, and to sentence prisoners duly convicted before them of such offences to six months imprisonment, with a fine not exceeding 200 rupees, commutable, if not paid to a further period of imprisonment not exceeding six months.

235. In these cases the magistrate is precluded from inflicting corporal punishment; and where the affray shall have been attended with homicide, severe wounding, or other aggravating circumstances, he is bound to commit the parties to the court of circuit.

236. By Regulation X. of 1824, the powers of the magistrates have been extended in regard to the offer of conditional pardons to accomplices or accessaries, with a view of discovering the principal offenders, of prosecuting criminals to conviction, and of recovering stolen property. Every precaution has been taken to guard against an improper or injudicious exercise of the powers in question.

237. With a view to the better maintenance of the public tranquillity, and to prevent breaches of the peace, the summary investigation (which by former enactments devolved upon the civil courts) in cases of disputed boundaries or contested claims to the possession of lands, crops, wells and watercourses, has, by Regulation XV. 1824, been transferred to the magistrates, leaving the parties, if dissatisfied with the award of the magistrate, to institute a regular civil suit for the final determination of their rights.

238. The foregoing recital will show that the powers of the magistrates have been very considerably enlarged of late years, so as to diminish materially the labours of the courts of circuit in the trial of cases of minor importance, and the inconveniences to which prosecutors

and witnesses in such cases were exposed by the necessity of attending twice at the sudder station; while, by bringing under the periodical review of the courts of circuit all sentences passed by magistrates in which the punishment may exceed six months imprisonment, a sufficient precaution has been adopted to guard against the irregular or injudicious exercise of the additional powers above adverted to.

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239. Some judgment may be formed of the extent in which the enlarged powers granted to magistrates have tended to relieve the judges of circuit, by the following Statement, exhibiting the number of cases of Burglary on which sentence has been passed by the courts of circuit before and since Regulation XII. 1818, took effect; viz.

Cases of BURGLARY punished by the Courts of Circuit:

In 1817 - - - - - -	1,081
1818 - - - - - -	1,117
1819 - - - - - -	435
1820 - - - - - -	394
1821 - - - - - -	348
1822 - - - - - -	346
1823 - - - - - -	323

240. From this statement it appears that in each of the two years first specified, the number of burglaries punished by the courts of circuit averaged 1,100 cases, in each of the two last only 335. Nearly similar results may be assumed in regard to the number of persons charged with theft, and with receiving stolen property, who are now tried by the courts of circuit, compared with those who were tried by the same courts previously to the year 1819.

241. The alterations which have been made in the administration of criminal justice by the regulations enacted since the date of your honourable Court's Despatch, have, we trust, been further beneficial, in better defining, and in extending the powers of judges of circuit.

242. By Regulations XI. 1814, XVII. 1817, XII. 1818, III. XII. and XVI. 1825, the judges of circuit have been empowered, without reference to the nizamut adawlut, to award much less severe sentences than heretofore in cases of robbery, burglary and theft, when unattended with circumstances of aggravation; and the punishment of culpable homicide, of forgery, perjury and other offences connected with them, has been further limited; and the powers to be respectively exercised by the courts of circuit and by the nizamut adawlut more clearly defined.

243. By Regulation II. 1823, the minimum of the punishment in aggravated cases of affray, to be awarded by the courts of circuit, has been fixed; and the cases referrible to the nizamut adawlut, distinctly defined.

244. By Regulation XVII. 1817, and IV. 1822, various defects in the Mahomedan rules of evidence, and in the Mahomedan criminal law itself, which operated to defeat the ends of public justice, have been remedied.

245. By Regulation XII. 1825, the criminal courts have been prohibited from adjudging corporal punishment by stripes in cases of affray, and contempts of court; the use of the corah as an instrument of punishment has been discontinued in all cases; and females convicted of criminal offences have been altogether exempted from corporal punishment by stripes; and it has been rendered necessary that two judges of the nizamut adawlut must concur in all sentences of death passed by that court.

246. By Regulation III. of 1818, provision has been made for bringing periodically under the revision of government the cases of all prisoners confined by the authority of government for reasons of state, and for their being properly and humanely treated so long as they may be detained in custody.

247. By Regulation VI. of the same year, measures have been taken to guard against the prolonged detention of prisoners under examination; and by Regulation VIII. of the same year, the powers of the magistrates and courts of circuit in requiring security for the good behaviour of persons of suspicious livelihood, or of notoriously bad or dangerous character, have been limited and defined. The cases of prisoners of the above description who were detained in confinement at the period when the regulation was passed, have been subjected to a careful revision by commissioners specially appointed for the purpose, and the result of their labour, which was communicated to your honourable Court in our Despatch of the 19th December 1822, paras. 9 and 10, will have met the wishes of your honourable Court, as expressed in paras. 175, 176, and 177 of your Despatch.

248. The total number of prisoners detained in custody in the Lower and Western Provinces, on failure to give security under the existing rules, amounted on the 1st of January last, to 1,352, as explained in the following Abstract:

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ABSTRACT Statement of Prisoners in confinement under requisition of Security, on the 1st of January 1826.

	Of dangerous Character, to be confined indefinitely till Security be given.	To be discharged at the end of a limited Period.	TOTAL.
LOWER PROVINCES.			
By the Nizamut Adawlut - - - -	11	14	25
Courts of Circuit - - - -	25	77	102
Magistrates - - - - -	9	824	833
TOTAL - - -	45	915	960
WESTERN PROVINCES.			
By the Nizamut Adawlut - - - -	3	6	9
Courts of Circuit - - - -	2	28	30
Magistrates - - - - -	5	348	353
TOTAL - - -	10	382	392
GRAND TOTALS - - -	55	1,297	1,352

249. We trust that the foregoing brief recital of some of the principal rules recently enacted for the improved administration of criminal justice, will show the anxiety with which your government has endeavoured to accomplish the objects indicated by your honourable Court, under the third division of your letter.

250. Various misdemeanors, petty thefts, &c. have been made cognizable by the sudder aumeens; the magistrates have been empowered to try numerous cases which were formerly only cognizable by the courts of circuit, and the latter courts again have been authorized to pass a final sentence in various classes of cases which were before referrible to the nizamut adawlut.

251. The higher European tribunals have been thus relieved of a considerable portion of their business, the administration of criminal justice has been rendered more prompt and efficient, and prosecutors and witnesses in numerous cases relieved from the necessity of a double attendance at the sudder station of the zillah or city.

252. Your government, from the improved state of the police, has been able, without hazard to the public interests, materially to mitigate the extent of the penalties formerly annexed to many serious crimes.

253. Those penalties have been more accurately defined; the respective powers of the higher courts have been distinctly specified; every precaution has been adopted to prevent those abuses of power on the part of the police officers which your honourable Court has noticed; to secure the proper treatment of prisoners under examination, the fair and impartial investigation of the charges against them, and the most humane attention to their health and proper comforts while in confinement.

254. The chief defects of the Mahomedan law have been now corrected; and our criminal code may claim the merit of great mildness in the nature of its penalties; while the administration of criminal justice is, through all its branches, superintended with a degree of vigilance which precludes the hazard of serious errors or irregularities being long continued without detection.

255. The great cause of failure in the administration of criminal as well as of civil justice, is the habitual disregard for truth which unhappily pervades the bulk of the native community, and the little security which the obligation of an oath adds to the testimony of witnesses.

256. We do not believe that this characteristic vice of the natives of India has been fostered or increased by the establishment of our courts of justice or other institutions. It has been found to prevail to at least as great an extent in Mysore, in the Mahratta country, and in other parts of India to which our authority had not extended, and where our institutions were unknown.

257. False testimony is in certain cases directly encouraged and approved by the sanction of the great lawgiver of the Hindoos, and the offence of perjury can be expiated by very easy penances. Under these circumstances, the inhabitants of India generally must undergo a great moral regeneration, before an evil, which saps the very foundations of justice, and bars all confidence between man and man, can be effectually remedied.

258. This subject has been very fully and ably treated in a presentment made by the grand jury of Calcutta to the supreme court, in the fourth term of 1823, and the expediency of abolishing oaths, as connected with native evidence, has been forcibly urged.

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259. We have given every consideration to the remarks offered in the two last paragraphs of your honourable Court's Despatch on this important question, and to the very full discussion of it contained in the Report of the Sudder Dewanny Adawlut, in paragraphs 234 to 243 inclusive.

260. Our own impression is, that, generally speaking, the moral sanction of an oath does not (especially amongst the lower classes) materially add to the value of native testimony, whether of Hindoos or Mahomedans; that the practical restraint on perjury is the dread of the punishment prescribed by law for that offence, and that the fear of consequences in a future state, or the apprehended loss of character and reputation amongst their countrymen, has little effect upon the great majority of the people, in securing true and honest testimony, when they may be influenced by the bias of fear, favour, affection or reward.

261. With these impressions, we should have no objection to try the experiment of dispensing with oaths in all civil and criminal cases of minor importance, in the first instance, if our most experienced judicial officers, including the court of Sudder Dewanny Adawlut, entertained the same opinion. Such, however, does not appear to be the case, and as our courts of justice are empowered to admit a solemn declaration in all instances in which, according to the prejudices of the country, it may appear improper to compel a person to take an oath, and as our regulations admit of any other oath than the one now in use being administered to Hindoos, which may be legal and binding on the consciences of the parties, we concur with the court of Sudder Dewanny Adawlut in opinion, that no modification of the existing rules (short of the abolition of oaths altogether) is requisite or desirable.

262. Persons of respectability are aware that they will be exempted from taking an oath in our courts of justice, on subscribing the solemn declaration prescribed by the regulations; and their reluctance to appear as witnesses is more justly ascribable to the little attention paid to the distinction of ranks in taking evidence, to their being liable to be confronted with persons of inferior caste, and to be subjected to cross-examinations, as well as to trouble, inconvenience, and probable suspicion of giving false evidence. The rule which required that retrospective oaths should be taken half-yearly by the Mahomedan law officers of our civil and criminal courts, and such parts of the former regulations as directed that the law officers, or ministerial native officers of the courts of judicature, or any other native officers employed in the judicial, revenue or commercial department, or in any public office whatever, should take and subscribe an oath previously to entering upon the discharge of the duties of the office to which they might be appointed, have been rescinded by Regulation XVIII. 1817, and the native officers are now required only to subscribe a solemn declaration to the same effect as the oath above referred to. The motive assigned for these enactments was the better maintenance of the sanctity and obligation of an oath, by confining the requisition of it to cases in which an oath might be necessary for the validity of evidence and the due administration of justice.

263. We have thus considered the questions specifically noticed by your honourable Court. It will be allowed us, however, before concluding this Despatch, to offer some general observations on the actual state of the country under the system of judicial administration now in force, and on some other points closely connected with it.

264. Independently of the city of Calcutta, and of the territories subject to the civil commissioners at Delhi, Kumaon, Saugor and the banks of the Nerbudda, and some other tracts of smaller note (besides Lower Assam, Arracan and other territories lately conquered from the Burmese), the provinces in which the system of police and of judicial administration prescribed by the existing code of regulations has effect, now comprise 47 districts (zillahs or cities), each of which, on a general average, may be assumed to contain a population of more than 1,000,000; each of these districts contains, on an average of the whole, an area of 5,000 square miles. The extreme length of 12 of the largest districts is, on an average, 158 miles, and of their breadth, 100 miles.

265. The inconvenience resulting from the extent and population of several of the larger districts would be much more seriously felt, were it not that by stationing a registrar or sub-collector, vested with the powers of joint magistrate and with local jurisdiction over a portion of such districts, remote from the sudder station, the exercise of control by our European functionaries over the native officers is facilitated, and the necessity of parties and witnesses proceeding to a great distance from their homes prevented. The latter object also has been promoted by the provisions of Regulation XVII. 1825, which provide for sessions of gaol delivery being held at the stations of several of the joint magistrates where the measure could be effected without requiring the judge of circuit to undertake a journey of inconvenient length.

266. The local jurisdiction of one of these registrars and joint magistrates (Futtehpore) has been recently constituted a zillah; and there are several others, Monghyr, Azimghur, Shahjehanpoor and Boolundshuhur, for instance, in which the registrar and joint magistrate, though on a very inferior footing in point of salary, performs duties as onerous and responsible as those of many other zillah judges and magistrates. The principle is not one on which it is desirable to act permanently. Motives of economy alone have precluded us from forming those jurisdictions into regular zillahs; and we trust that your honourable Court will authorize our adopting the latter measure, so soon as the state of the finances may admit of it.

267. We have already stated our conviction, that in the present state of native society we cannot safely entrust the exercise of judicial authority, civil or criminal, to natives,

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without subjecting them to European control and supervision; and that in the degree in which we can extend that control, by the multiplication of European officers, we shall secure the fair administration of justice, and promote the happiness and interests of the great body of the inhabitants.

268. The periodical returns of the state of civil business for some years past, and the resolutions passed upon them by the Sudder Dewanny Adawlut and by government, will show how seriously the administration of civil justice has been and still continues to be impeded by the insufficient number of European functionaries employed in that branch; but we trust that the measures which your honourable Court have recently adopted will gradually operate to remove the embarrassment which we have for some years past experienced in supplying the demands of the public service, especially in the judicial department.

269. Although it is essential that we should at all times have it in our power to employ that number of European functionaries, whose services are required under the prescribed system of judicial administration, it is not less important that the individuals to be employed should possess the requisite qualifications for the proper discharge of the duties entrusted to them.

270. The state of the service however precludes our making such a selection as the importance of the offices to be filled demands, and we may be pardoned for remarking, that unless admission to your service in the first instance be made the reward of talents, industry and good conduct, some of the highest offices in the civil administration of this country must occasionally fall into the hands of individuals possessing very moderate qualifications and acquirements.

271. The difficulty of adequately supplying competent officers for the more important situations increases every day, and must continue to increase in proportion to the improvement of the country, and any reference to the state of things formerly existing at periods when the people were just delivered from the misrule of feeble or barbarous governments, must be entirely inapplicable to the present, and we hope future, condition of your administration in India.

272. To secure therefore the efficiency of your civil administration, the principle of selection on the first admission of individuals into the civil service should, we conceive, be particularly attended to; and the beneficial operation of this principle would be greatly augmented if your civil servants generally commenced their public career free from pecuniary embarrassments.

273. The various measures which have been adopted by this government with a view to the attainment of the latter object, have been brought under your honourable Court's notice; and the information which we have lately received from the college council leads us to hope that they have been attended with great practical benefit.

274. Important as is the object of supplying a sufficient number of duly qualified and independent European functionaries, it is scarcely less essential to the efficiency of your government that the higher class of native officers employed in the civil administration should be better qualified than at present, by education and habits, for the important trusts devolving upon them, and that they should be entitled to emoluments sufficient to ensure, under circumstances of no ordinary temptation, the faithful discharge of those trusts.

275. Your honourable Court has, on several occasions, directed our attention to this object; and you will find from various remarks which we have offered in the course of this Despatch, that it has not been lost sight of. For a more full and satisfactory elucidation of our proceedings and views in relation to this object, and to the general improvement of the education of our native subjects, we beg to refer your honourable Court to our Despatches of the 30th July 1823, and the 27th January 1826.

276. Our anxious wish to encourage and promote the general dissemination of a knowledge of our regulations, and of the principles on which the administration of civil and criminal justice is conducted, has been evinced by the numerous works which have of late years been compiled and published both in the English and native languages under our instructions or encouragement. We here annex a memorandum of the principal works above referred to.

WORKS which, since the Year 1817, have been encouraged or patronized by Government.

Titles.	Dates of Consultations upon which recorded.
JUDICIAL DEPARTMENT:	Civil Consultations:
1. The Daya Crama Sangraha, an original Treatise on the Hindoo Law of Inheritance. Translated by P. M. Wynch, Esq. - - - - - - - -	17 Jan. 1817, Nos. 1 to 3. 2 June 1818, Nos. 1 to 3.
2. The Dattaka Miniansà and Dattaka Chandrika, two original Treatises on the Hindoo Law of Adoption. Translated from the Sanscrit by I. C. C. Sutherland, Esq. - - - - - - - - -	29 July 1817, Nos. 29 & 30. 30 Mar. 1821, Nos. 1 & 2.
3. The Hedaya, in the original Arabic text, with notes, edited by Molavee Hubban - - - - - -	16 Oct. 1818, Nos. 7 & 8. 16 Dec. - Nos. 25 & 26.

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Titles.	Dates of Consultations upon which recorded.
Judicial Department—*continued.*	Civil Consultations:
4. Reports of Select Causes, turning chiefly on points of Hindoo or Mahomedan Law, adjudged in appeal before the Sudder Dewanny Adawlut previously to the year 1805, and from that year to 1808. Translated by H. Shakespear, Esq.; 5 vols. - - - - -	3 May 1822, Nos. 9 & 10. 27 June – Nos. 1 to 3. 8 Aug. – Nos. 8 & 9. 15 Aug. – Nos. 17 & 18. 23 Jan. 1823, Nos. 19 & 20. 22 May – Nos. 10 & 11. 12 June – Nos. 14 & 15. 26 Aug. 1824, Nos. 12 & 13. 6 July 1826, Nos. 15 & 16.
5. Abstract of the Regulations enacted for the administration of Civil Justice in the provinces of Bengal, Behar and Orissa, from the year 1793 to the end of 1824; with an Index, and Notes of reference to any enactments by which provisions, still in force, may have been modified or altered. Originally compiled by W. Blunt, Esq. to the year 1818, and continued and rendered into Persian by H. Shakespear, Esq. -	15 Sept. 1825, Nos. 26 & 27. 13 Oct. – Nos. 25 & 26.
6. Abstract of the Regulations enacted for the administration of the Police and Criminal Justice in the provinces of Bengal, Behar and Orissa, from the year 1793 to the end of 1823; with an Index, and Notes of reference to any enactments by which provisions still in force may have been modified or altered. Originally compiled by W. Blunt, Esq. formerly superintendent of police, to the year 1818, and continued and rendered into Persian by H. Shakespear, Esq. superintendent of police, Lower Provinces. - - - - - -	Criminal Consultations: 12 Feb. 1824, Nos. 20 & 21. 4 Mar. – Nos. 16 & 17. 25 – – Nos. 14 & 15.
7. Abstract of the Regulations enacted for the administration of Civil Justice in the provinces of Bengal, Behar and Orissa, from the year 1793 to the end of 1824; with an Index, and Notes of reference to any enactments by which provisions still in force may have been modified and altered. Originally compiled by W. Blunt, Esq. to the year 1818, and continued by H. Shakespear, Esq. - - - - - -	Civil Consultations: 11 Aug. 1825, Nos. 6 to 18. 7 Sept. 1826, Nos. 10 & 11.
8. Abstract of the Regulations for the administration of the Police and Criminal Justice in the provinces of Bengal, Behar and Orissa; with an Index, and Notes of reference to any enactments by which provisions still in force may have been modified or altered. Originally compiled by W. Blunt, Esq. formerly superintendent of police, to the year 1818, and continued by H. Shakespear, Esq. superintendent of Police, Lower Provinces - - - - - - - - - - -	Criminal Consultations: 25 Mar. 1825, Nos. 13 & 15. 28 Oct. 1824, Nos. 19 & 20. 11 Nov. – No. 54.
9. Abridgment of the Penal Regulations, as enacted by the Governor-general in Council, for the government of the territories under the presidency of Fort William in Bengal; exhibiting at one view the offence, the penalty for that offence, the jurisdiction necessary to convict the offender, and a reference to the number, year and section of the enacting Regulation; together with an alphabetical Table of Contents. By D.C. Smyth, Esq. magistrate of the district of Hooghly - -	12 Aug. 1824, Nos. 33 to 36. 9 Sept. – No. 43.
10. Considerations on the Hindoo Law, as it is current in Bengal. By the Honourable Sir F. W. Macnaghten, Knt. - - - - - - - - - -	Civil Consultations: 24 Mar. 1825, Nos. 19 to 25.
11. Principles and Precedents of Moohummudan Law, being a compilation of primary Rules relative to the doctrine of Inheritance (including the tenets of the Sehia sectaries), Contracts and miscellaneous subjects, and a selection of legal opinions involving those points, delivered in the courts of judicature subordinate to the presidency of Fort William; together with Notes illustrative and explanatory, and preliminary Remarks. By W. H. Macnaghten, Esq. of the Bengal civil service	14 Apr. 1825, Nos. 7 to 10. 28 July – Nos. 12 to 14.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

	Titles.	Dates of Consultations upon which recorded.
	Judicial Department—*continued.*	Civil Consultations:
12.	Intended Work on Hindoo Law. By W. H. Macnaghten, Esq.	13 Oct. 1825, Nos. 3 & 4. 15 Dec. – Nos. 13 to 15. 2 Feb. 1826, Nos. 21 to 24.
13.	Abridgment of the Regulations for the Administration of Civil Justice, abstracted from Mr. Harington's Analysis. By Moulavy Mahummud Zuhoor, of the Ghazeepore zillah court	13 Oct. 1825. Nos. 5 to 8. 19 Jan. 1826, No. 14.
14.	Fatawa Alumgiri, published by the General Committee of Public Instruction	17 Aug. 1826, Nos. 7 & 8.
15.	Proposition for reprinting translations of the Persian and Bengalee Regulations of Government. By the Rev. J. Marshman	23 Dec. 1824, Nos. 3 & 4. 14 Apr. 1825, Nos. 24 to 32. 16 Nov. 1826, Nos. 13 & 14.
16.	Proposition for reprinting the English Regulations of Government. By the Rev. W. H. Peace	30 Nov. 1826, Nos. 19 to 21.
17.	Reports of Cases determined in the court of Sudder Dewanny Adawlut, with Tables of the names of the cases and principal matters. By W. H. Macnaghten, Esq. registrar of that court. Vol. 3, containing select cases of 1820, 1821, 1822, 1823 and 1824	19 May 1825, Nos. 9 & 10. 25 Aug. – Nos. 3 & 4. 26 Jan. 1826, Nos. 23 & 24. 20 July – Nos. 12 & 13. 19 Jan. 1827, Nos. 25 & 26.
18.	Abridgment of the Penal Regulations, as enacted by the Governor-general in Council for the government of the territories under the presidency of Fort William in Bengal. By D. C. Smyth, Esq. magistrate of Hooghly. Translated by Mr. Da Costa	Criminal Consultations: 22 Feb. 1827, Nos. 51 to 56.
	General Department:	
19.	Byabustha Sungruhwor; a collection of Opinions compiled by Ramjeeyn Tarkalunkar, from the 36 original books of Dayubhagu, &c.; with the authorities of Munoo, &c.	Consultations: 6 June 1820, Nos. 40 & 41.
20.	Byabustha Sungruhu; or, a collection of Opinions compiled by Lukshmee Narryana Nyayalunkra, from the original books of Dayabhaga, &c.; with the authorities of Munoo, &c.	15 Aug 1822, Nos. 24 & 25.
21.	Meetakshura of Jugyavalkya; a work on Hindoo Law. By Luk Narain Naya Lunakar	23 April 1823, Nos. 43 & 44.
22.	Futawa Humadee; a work on Mahommedan Law. Printed by the Asiatic Lithographic Company	21 July 1825, Nos. 38 & 39.
23.	Duroob Mokhtar; a work on Mahommedan Law	17 Aug. 1826, No. 57 to 59.
24.	Feesool Imadi; a work on Civil Law. By Abool Futteh Mahommed, of the College of Imadool Moolk, at Sarmacand	Ditto ditto.
	Territorial Department:	
25.	Abstract of the Regulations enacted for the Assessment and Realization of the Land Revenues in Bengal, Behar and Orissa, from the year 1793 to 1824 inclusive; with an Index, and Notes of reference to any enactments by which provisions of regulations in force may have been modified or altered	Revenue Consultations: 2 June 1825, Nos. 23 & 24. 16 – – No. 19. 23 – – No. 20. 1 Sept. – No. 11. 22 June 1826. 3 Nov. – Nos. 27 & 28.
	Persian Department:	
26.	Ashbahoo Nazayir, or Examples and Illustrations of Mahommedan Law. By Zein Al Abdin	Persian Office: 3 Feb. 1826.

277. We have delayed the conclusion of this Despatch, in the expectation of receiving from the Government of Fort St. George information which we called for on the 11th of May 1826, on various points connected with the practical operation of the changes which were introduced in the judicial system of that Presidency in the year 1815–16; that information however not having yet reached us, we shall hereafter forward it, with any further remarks which the consideration of it may suggest, to your honourable Court. In the meantime we may observe, that the tenor of your honourable Court's Despatch to the Government of Fort St. George, dated the 11th of April 1826, warrants the inference that some at least of the important objects contemplated in the establishment of those changes have not been attained, and that the general result of ten years experience does not encourage the adoption of similar alterations in the territories under this Presidency, in opposition to the almost universal feeling and opinion of your best informed servants.

Appendix, No. 2.

(1.) Letter from *Bengal* Government, 22 Feb.

We have the honour to be, honourable Sirs,
Your most faithful humble Servants,
Combermere.
J. H. Harington.
W. W. Bayley.

Fort William, 22 February 1827.

(2.)—COPY of a LETTER from the *Bengal* Government to the Court of Directors, dated 15th June 1830; with its Enclosures.

(2.) Letter from the *Bengal* Government, 15 June 1830.

Honourable Sirs,

1. OUR last letter in this department was dated the 1st instant.

2. In pursuance of the intention expressed in paragraph 277 of a Despatch to your honourable Court, dated the 22d of February 1827, we have now the honour to transmit copies of documents noted in the margin, containing the information called for from the Government of Fort St. George on the 11th May 1826, on various points connected with the practical operation of the changes which were introduced in the Judicial system of that Presidency in the year 1815–16.

Civil Cons. 18th September 1828, Nos. 13 & 14.
Letter from Secretary to Government at Fort St. George, dated 9th February 1830.
Letter from Registrar Sudder Adawlut to the Secretary to Government at Fort St. George, dated 23d April 1829.
Extract from the Proceedings of the Sudder Adawlut, dated 23d April 1829.
Statements (A. to Z.)
Extract from the Minutes of Consultation at Fort St. George, dated 9th February 1830.

3. In the 4th paragraph of a letter, dated the 30th April 1828, your honourable Court intimated your intention of awaiting this Report from Madras, previously to your replying fully to the Despatch above mentioned.

4. The Right Honourable the Governor in Council having, in the proceedings of the 9th February, recorded his opinion on the Report submitted by the Sudder Court, it is unnecessary that we should enter into any detailed review of it; and we shall confine ourselves to a few remarks suggested by a comparison of the systems in force under the two Presidencies.

5. In regard to the village moonsiffs, we find nothing in the Report of the Sudder Court to encourage the introduction of similar establishments into the Bengal territories. They do not appear to enjoy, to any great extent, the confidence of the people; while the number of suits decided by them have afforded very little relief to the district moonsiffs.

6. The report on the latter class of officers is in the highest degree favourable. In the corresponding tribunals under this Presidency, the moonsiffs are not empowered to try suits in which the value or amount sued for exceeds 150 rupees; nor can they try any suits for real property; whereas the district moonsiffs at Madras are competent to decide suits to the amount of 500 rupees, whether for real or personal property, (with the exception of certain cases involving claims to land exempt from the payment of rent.)

7. The powers of the sudder aumeens have also, for some years past, been more extensive than those of Bengal; and doubtless much of the reduction shown to have taken place in the civil business in the Madras European courts, since 1816, is to be attributed to that cause.

8. Your honourable Court will have observed that in 1827 a regulation was passed by this Government (Regulation IV.) for enlarging the powers of the sudder aumeens in special cases; and we have apprised you in a former letter, that we have it in contemplation to increase them still further, as well as to extend the jurisdiction of the zillah moonsiffs.

9. The village and district punchayets are represented as being held in little estimation. So seldom is that mode of settling differences now resorted to, that in the statement marked (K.) referred to in the Report of the Sudder Adawlut, the former disposed of twenty-four cases only, and the latter of thirty-three, during the year 1827. The court observe, "it can now hardly be doubted that its prevalence in former times was a matter of necessity, from the want of other tribunals, rather than the effect of a prepossession in favour of an ancient institution."

10. The same result has been experienced in the territories subject to this Presidency, excepting in those parts where more regular tribunals are not accessible to the people. We are inclined to think that the most useful mode of deriving gratuitous assistance from

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

respectable natives in the administration of justice, both civil and criminal, has been provided in the regulations of the Bombay Government, a transcript from which is given in the margin;* and we have made a reference to the courts of Sudder Dewanny and Nizamut Adawlut, to ascertain the sentiments of the court on the expediency of adopting similar provisions, with a view to the gradual introduction of trial by jury, should further experience justify the measure.

11. From the Appendix referred to in the 54th to 57th paragraph of the Sudder Adawlut's letter, a very considerable reduction appears to have taken place in the civil files of the European courts in ten years, from 1816 to 1826, as exhibited in the Abstract given in the margin.† The court have offered no explanation of the cause of this favourable change; our impression is, that it has chiefly resulted from the more extensive employment of native agency, and, in some degree, from the powers exercised by the collectors of land revenue in their magisterial capacity, in the adjudication, summarily, of all disputes regarding lands or crops, as well as in the pecuniary cognizance of suits between the landholders and their ryots for arrears of revenue; besides which, the transfer of the management of the police and of the office of magistrate to the collectors must, in some measure, have enabled the zillah judges to devote a larger portion of their time to the performance of their civil duties. In paragraph 72 of their Report, however, the Sudder Adawlut seem to doubt whether the transfer has in reality had that effect.

12. We beg to refer your honourable Court to the Despatch dated the 22d February 1827, paras. 185 to 195, for the reasons which militate against the general employment of collectors as magistrates in the territories of this Presidency. Some instances were pointed out, in which it had been deemed practicable to introduce the plan both in the Lower and Western Provinces. At the same time it may be observed, that the larger judicial powers exercised by magistrates under our regulations, compared with those entrusted to the magistrates of Madras, require perhaps more circumspection in the selection of individuals to fill the joint offices.

13. In the 60th paragraph of their letter, the Sudder Adawlut remark,—

"It seldom happens that the magistrates or their assistants interfere at all with the preliminary investigations in cases in which they have not the power to inflict punishment. In such cases the informations are, for the most part, taken by the native heads of district police, who either release the accused persons, or forward them direct to the criminal judge; and in point of fact the exercise of magisterial functions by the collectors and their assistants is limited to the trial of petty offences punishable by themselves, without reference to higher authority."

14. The judicial powers of the collectors, in the administration of criminal justice, do not in fact exceed those of the assistants under the Bengal Code.

15. Notwithstanding the opinion expressed by the Court in paragraph 62, we are disposed to think it advisable that our magistrates, as at Madras, should be relieved from the necessity of recording their proceedings in detail in every petty case that is brought before them; but we doubt the expediency of extending the exemption to subordinate functionaries; and we entirely concur with the Sudder Adawlut in the serious objections which exist to vesting native police officers (so long as they are continued on their present footing in point of emolument) with power to hold proceedings in petty criminal cases, and to inflict punishment by fine, imprisonment and flogging, as sanctioned by Regulation IV. 1821, of the Madras Code.

16. The

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* Regulation IV. 1827. Section xxiv.

Clause 1st. In the trial of suits, it shall be competent to every court in which an European authority presides, to avail itself of the assistance of respectable natives, in either of the three following ways:—First, By referring the suit, or any point or points in the same, to a punchait of such persons, who will carry on their inquiries apart from the court, and report to it the result. The reference to the punchait and its answer shall be in writing, and shall be filed in the suit.

Clause 2d, (or Second.) By constituting two or more such persons assessors or members of the court, with a view to the advantages derivable from their observations, particularly in the examination of witnesses, the opinion of each assessor shall be given separately, and discussed; and if any of the assessors, or the authority presiding in the court, should desire it, the opinions of the assessors shall be recorded in writing in the suit.

Clause 3d, (or Third.) By employing them more nearly as a jury, they will then attend during the trial of the suit, will suggest, as it proceeds, such points of inquiry as occur to them; the court, if no objection exists, using every endeavour to procure the required information, and after consultation will deliver in their opinion.

Clause 4th. It is to be clearly understood, that under all the modes of procedure described in the three preceding Clauses, the decision is vested exclusively in the authority presiding in the court.

The foregoing rules are extended to criminal trials, by Clause 5th, Section xxxviii. Regulation XIII. 1827.

† Number of Suits depending in the Madras European Courts:

	In 1816.	In 1826.
Sudder Court - - - - -	59	14
Provincial Courts - - - -	540	262
Judges and Registers - - -	6,490	2,660

Appendix, No. 2.

(2.) Letter from the *Bengal* Government, 15 June 1830.

16. The gross irregularities practised by the police officers, as noticed by the Sudder Adawlut, forcibly confirm the opinions we have formed of the dangerous tendency of trusting such powers to native officers, of the description of those who are now employed, more especially when allowed to exercise them at a distance from the immediate control of European authority.

17. Nor is the result of the experiment tried at Madras, of entrusting the police officers with the duty of taking informations, in cases wherein the power of punishment rests with the superior tribunals, such as to encourage the introduction of the practice into these territories.

18. The subject is adverted to in paragraph 66 et seq. of the Sudder Adawlut's Report, from which it is abundantly evident that the plan has failed in the essential point of expediting commitments; that the laxity and irregularity of the preliminary investigation of the police officers has, in many cases, led to the acquittal of delinquents; while the undue means often resorted to by those officers to obtain confessions, as a ground-work of commitment, without further investigation, must frequently have been attended with the most mischievous consequences to the ends of public justice.

19. Above all, the latitude allowed to the police officers in the conduct of these preliminary inquiries, cannot fail to be a source of great oppression. The Court remark (paragraph 73), "There are few of the quarterly reports transmitted to the court of Foujdarry Adawlut, that do not exhibit numerous cases in which prisoners are detained by the police officers for weeks, and in some instances for months, before they are sent to the criminal judge;" and the Court add, "All the superior courts can do, is to bring them to the notice of the magistrates, who, in the exercise of the discretion which must necessarily be left to them, can hardly be expected to visit with much severity the delinquency of a police officer, whose services in the revenue department are perhaps of the highest value."

20. The Court's remarks on the office of criminal judge, and on the general efficiency of the police, suggest very few observations. The powers possessed by that class of officers in the punishment of offenders, appear to correspond with those exercised by magistrates in these territories; Regulation I. of 1825, by which they were extended, having been taken almost *verbatim* from Regulation XII. 1818, of the Bengal Code.

21. In the opinion of the Sudder Adawlut, there can be no question that relieving the zillah judges from the management of the police, has been beneficial; "but whether the transfer of the police to the collectors has been attended with all the benefits expected from it, is extremely doubtful." They are fully occupied with their revenue duties, "and in consequence with most of them the business of police is, as in the nature of things it must be, a matter of secondary consideration;" a remark the Court consider equally applicable to the tuhseeldars in their capacity of police officers.

22. Upon the whole, the information elicited by this inquiry is not calculated to excite any regret that this Government has refrained from uniting generally the duties of the collector and magistrate, and from calling in the aid of the native officers of police in the administration of criminal justice. It has indeed served to strengthen the opinions expressed in paragraph 202 to 213, in the Despatch before alluded to, dated the 22d February 1827, of the superior advantages of placing the management of the police in the hands of an officer who can devote the whole of his attention to the subject, without being distracted by the duties of the civil court, or of the revenue department.

23. In noticing that Despatch, your honourable Court, in your Letter dated the 30th April 1828, paragraphs 18 and 19, have sanctioned this arrangement, when the pressure of business may render some extensive additional assistance absolutely necessary for the due administration of justice; and to such cases of emergency we shall of course continue to restrict it.

We have the honour to be, honourable Sirs,
Your most faithful humble Servants,

(signed) *W. Bentinck.*
W. B. Bayley.
C. T. Metcalfe.

Fort William, 15th June 1830.

(Enclosures.)

To *H. Shakespear*, Esq. Secretary to Government, *Fort William.*

Sir,

I AM directed by the Right honourable the Governor in Council to transmit to you, for the information of the Right honourable the Governor-general in Council, the accompanying copy of a Letter from the Register to the court of Sudder Adawlut, at this Presidency, explaining the causes of the delay in preparing the Report, which, in consequence of your Despatch of 11th May 1826, that court was called upon to furnish, respecting the practical operation of the changes made of late years in the system for the administration of justice and police in the territories subject to this Presidency.

I am further directed to state, that the Right honourable the Governor in Council has taken this occasion again to urge the judges of the court of Sudder Adawlut to furnish the required Report at the earliest practical period, and that when received, a copy of it will be transmitted without loss of time, for the information of the Right honourable the Governor-general in Council.

I have the honour to be, Sir, &c.

(signed) *J. M. Macleod,*
Secretary to Government.

Fort St. George, 26th August 1828.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

To the Secretary to Government in the Judicial Department.

Sir,

I AM directed by the judges of the court of Sudder and Foujdaree Adawlut, to acknowledge the receipt of Mr. Chamier's letter, dated 13th May last, (No. 301.) desiring the early transmission of the report called for on the 6th June 1826.

2. The preparation of the report referred to has been delayed by various causes. Soon after the receipt of your letter, dated the 6th June 1826, the judges applied themselves to the task required of them; but it was found that, on several points of inquiry, the records of the court did not afford materials for furnishing the information called for by the Supreme Government; and a considerable time elapsed before answers could be procured from the several judicial and revenue officers in the provinces, to the reference made to them on the 7th of August 1826, for statements, &c. which they only had the means of supplying. Some of the returns received appeared to require revision, and a further delay has been occasioned by a second reference for that purpose. Then, in the course of drawing up the report, it occurred to the judges that several statements, in addition to those already prepared, were indispensable for the purpose of conveying to the Bengal Government the full information which they desire; and owing to the defective form of some of the periodical reports furnished by the lower courts, the preparation of these additional statements in the office has been found a matter of difficulty, and has consumed a great deal of time. Some, which the judges consider of the highest importance, are still unfinished, but it is hoped will soon be completed.

3. Considerable progress has been made in the Report, and the judges trust that they shall be able to submit it at an early period. Meanwhile I am directed to express their deep regret at the delay which has occurred in its transmission; and to assure the Right honourable the Governor in Council, that they have devoted to the preparation of it all the time and attention which they could well spare from the discharge of their ordinary duties.

I have the honour to be, &c.

Sudder Adawlut Register's Office, 18th August 1828.

(signed) *G. J. Casamajor,* Register.

To *H. Shakespear*, Esq., Secretary to Government, *Fort William.*

Sir,

Fort St. George, 9th February 1830.

WITH reference to Mr. Macleod's letter of the 26th August 1828, (No. 472.) I am directed by the Right honourable the Governor in Council to transmit to you, for the information of the Right honourable the Governor-general in Council, the accompanying copy of a Letter from the register to the court of Sudder and Foujdarree Adawlut, with copies of its accompaniments, and an Extract from the proceedings of Government thereupon.

No. 1.
No. 2.

I have the honour to be, &c.

(signed) *Hy Chamier,*
Secy to Govt, Judicial Department.

To the Acting Secretary to Government in the Judicial Department.

Sir,

I AM directed by the judges of the Sudder Adawlut to transmit the accompanying Extract from the court's proceedings of this date, together with the Statements therein referred to, for the consideration of the Right honourable the Governor in Council.

I have, &c.

Sudder Adawlut Register's Office, 23d April 1829.

(signed) *A. D. Campbell,* Register.

EXTRACT from the PROCEEDINGS of the Court of SUDDER ADAWLUT, under date the 23d April 1829.

1. READ again the Letter from the Secretary to Government in the Judicial Department, forwarding copy of a communication from the Supreme Government in Bengal, calling for a full report on the judicial system introduced into the territories under this Presidency in the year 1816.

2. Read also the following Correspondence, which has subsequently taken place with the subordinate courts:

To the four Provincial Courts - - - - -	7th August 1826
Ditto - - - ditto - - - - -	5th May 1827
Ditto - - - ditto - - - - -	1st August 1828

Appendix, No. 2.

Enclosures referred to in Letter from the *Bengal* Government, 15 June 1830.

CENTRE DIVISION.

No. 521.	From the Provincial Court, Centre Division - -	dated 18th October	1826
– 522.	Ditto - - - - - - - ditto - - -	„ 25th October	1826
– 18.	Ditto - - - - - - - ditto - - -	„ 5th January	1827
– 752.	Ditto - - - - - - - ditto - - -	„ 29th December	1827
– 648.	Ditto - - - - - - - ditto - - -	„ 15th October	1828

SOUTHERN DIVISION.

No. 511.	From the Provincial Court, Southern Division -	dated 14th October	1826
– 600.	Ditto - - - - - - - ditto - - -	„ 28th November	1826
– 467.	Ditto - - - - - - - ditto - - -	„ 7th August	1827
– 479.	Ditto - - - - - - - ditto - - -	„ 13th August	1827
– 187.	Ditto - - - - - - - ditto - - -	„ 18th March	1828
– 670.	Ditto - - - - - - - ditto - - -	„ 24th October	1828

WESTERN DIVISION.

No. 615.	From the Provincial Court, Western Division -	dated 6th December	1826
– 239.	Ditto - - - - - - - ditto - - -	„ 25th April	1827
– 642.	Ditto - - - - - - - ditto - - -	„ 6th October	1828

NORTHERN DIVISION.

No. 30.	From the Provincial Court, Northern Division -	dated 9th January	1827
– 548.	Ditto - - - - - - - ditto - - -	„ 3d September	1827
– 647.	Ditto - - - - - - - ditto - - -	„ 6th October	1828

3. On the 18th August last, the judges explained to Government that the preparation of the report referred to, had been delayed by various causes. Soon after the receipt of their orders, the judges applied themselves to the task required, but it was found that on several points of inquiry the records of this court did not afford materials for furnishing the information called for by the Supreme Government; and a considerable time elapsed before answers could be procured from the several judicial and revenue officers in the provinces, to the reference first made to them for information, which they only had the means of supplying. Some of the returns received required revision, and a further delay was occasioned by a second, and subsequently by a third, reference for that purpose. In the course of drawing up the report also, it occurred to the judges that statements, in addition to those already prepared, were indispensable for the purpose of conveying to the Bengal Government the full information they desired; and owing to the defective form of some of the former periodical reports furnished by the lower courts, the preparation of these additional statements in this office was found a matter of difficulty, and consumed a great deal of time.

4. Further time was requisite to condense the information obtained into general abstract statements, and deliberation was necessary to draw thence just and correct conclusions. The severe pressure of numerous trials in the criminal department, the preparation of several important new regulations, and the numerous interruptions occasioned by the miscellaneous duties on the civil side of the court, which have occasionally occupied the judges, have contributed further to delay the report; but they are at length enabled to submit it to Government, in the hope that the delay which has occurred will meet with their indulgent consideration.

5. The judges will proceed to consider separately the several heads under which the Supreme Government have classed the information they were desirous to obtain, noting each in the margin of these proceedings, for the sake of more easy reference.

6. The first six heads refer principally to the civil, the others chiefly to the criminal judicature.

FIRST HEAD.

1st. How far the establishment of village moonsiffs provided for by Regulation IV. 1816, and by any subsequent regulation, has been found efficient and successful in accomplishing the object intended by it? What number of village moonsiffs the existing establishment in the several districts under the Madras Presidency? What number of causes was decided by them, or adjusted before them in the past year 1825? And what number was depending before them in each district on the 1st January 1826? Also, what is the general character of the village courts, and of the moonsiffs who preside in them? And whether in the institution of suits not exceeding 10 rupees, which are cognizable by the village courts, experience has corroborated the opinion which the court of Sudder Adawlut were induced to express in the 61st paragraph of their Register's Letter of the 21st September 1818, "that a preference has been manifested by the natives towards the courts of the district moonsiffs." The Governor-general in Council would also wish to be informed, whether the curnums and other village servants receive any compensation for the duties performed by them under the provisions of Regulations IV. & V. 1816, and whether it has been found practicable to supply every village curnum with translations of those and other Regulations, which may have been subsequently enacted for their guidance, and that of the village moonsiffs.

7. Considerable difficulty has been experienced in ascertaining the number of village moonsiffs. The Returns first transmitted were so obviously imperfect and incorrect, that

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a second reference was found necessary. From the accompanying Statement,* which is framed from the amended Returns, it appears that the number of village moonsiffs in the several districts under this Presidency is 32,328.†

8. The Supreme Government have required only a statement of the number of causes disposed of by these functionaries in 1825; but in order to give a more complete view of the operations of these courts, it has been thought advisable to prepare a Statement,† showing the number disposed of by them, with the number depending at the beginning of each year from 1817 to 1827. It has been stated, however, that many village moonsiffs exercise their functions without transmitting the reports prescribed by Section xxxvi. and xxxvii. Regulation IV. of 1816; and if this neglect has prevailed to any great extent, it is obvious that the Statement, owing to the defectiveness and the irregularity in the transmission of the returns from which it has been prepared, does not exhibit a full and correct view of the work performed by these courts, and of course no certain conclusion can be drawn from it. But there is no reason to believe that this omission on the part of the village moonsiffs has prevailed to any considerable extent. It seems improbable that many of those who have undertaken the performance of the duties entrusted to them, should neglect or refuse to perform the most easy and simple of them all; and if they do, it is clear that their claims to credit for a correct or efficient discharge of the higher functions of their office will become very questionable. It is, no doubt, true, that the number of those who make the prescribed reports is comparatively small, but this may be sufficiently accounted for by causes to be noticed hereafter, without supposing that any of the moonsiffs who actually exercise the functions assigned to them by the regulation, neglect to send the prescribed returns. Upon the whole, therefore, the Statement may be taken to afford a tolerably accurate view of the operations of these tribunals, although the materials from which it has been formed may not be so complete and correct as could have been desired.

*See Statement (A.)
†See Statement (B.)

9. It was considered proper to refer to the several authorities in the provinces for information respecting the general character of the village courts, and of the moonsiffs who preside in them, and subjoined are the most material passages of the reports received on this subject.

SOUTHERN DIVISION.

10. The late Mr. Monro, collector of Tinnevelly, says: "Whenever the judge has occasion to notice to the collector the conduct of the village moonsiffs, it is to point out their incapacity; and my own observation leads me to believe, that in their capacity of village judges, they are not much resorted to by complainants."

11. The late Mr. Peter, collector of Madura, says: "As few of the latter (village moonsiffs) can read or write, few causes are decided by them, the parties preferring the district moonsiffs."

12. Mr. Saunders, late collector of Trichinopoly, says: "The general character of the village moonsiffs is great ignorance of their duty, and little knowledge of the Regulations."

13. Mr. Cotton, late principal collector of Tanjore, after stating, that all the village curnums have been supplied with copies of translations of the Regulations enacted for their guidance, and that of the village moonsiffs, says, "Very few instances have come to my notice, in which they have been efficiently acted upon; and in respect to the village courts, they are, I believe, in no repute among the people of the district, and are seldom or never resorted to; but of these more correct information may be obtained from the court at Combaconum, to which the village moonsiffs are required to make their returns of all cases decided by them."

14. The late Mr. G. T. Cherry, judge of Combaconum, which zillah comprises the two collectorates of Trichinopoly and Tanjore, says: "With reference to the second paragraph of your letter, desiring me to communicate my opinion of the general character of the village courts, and of the moonsiffs who preside in them, I beg leave to premise, that from the very scanty means possessed for obtaining information, and the little opportunity afforded for personal observation, it can scarcely be expected that a zillah judge should be so well acquainted with the subject as to be enabled to give, in any way, a decided opinion. I have, however, every reason to believe that the establishment of village moonsiffs' courts has not been accompanied with any injury whatever to the inhabitants; and that, in a few instances, some real benefit has resulted from it, owing to the exertions of those individuals who have chosen to take upon themselves to discharge the functions of their office. The villages in the Tanjore and Trichinopoly districts are 7,493, and the sum total of the decisions made by the village moonsiffs under my jurisdiction, from the year 1818 to 1825 inclusive, amounts to 3,088. These suits were decided by only a few individuals. The reports required to be sent up by the village to the district moonsiffs, are by no means to be depended upon, and are not regularly transmitted by them. There is reason also to believe, that many of the petty suits disposed of by those officers are not inserted in their reports. There have been scarcely any charges of corruption brought before me against any of the village moonsiffs, and I believe such will seldom or ever be preferred, as litigating parties never will go to a village moonsiff whose character does not hold out some hope of their obtaining an impartial award; and such moonsiff as may be known to be open to corruption is never applied to by his own villagers, who prefer proceeding to the district moonsiffs, or even to the zillah courts, for the hearing of their disputes."

15. Mr. Sullivan, collector of Coimbatore, says: "Very little judicial business is ostensibly done in the village courts; neither in what is done is it probable that the Regulations are very strictly adhered to. Before the promulgation of these Regulations, an impression

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impression prevailed, that it would have been criminal for heads of villages to exercise those functions which had belonged to their office from time immemorial, and which were interrupted for the first time by the institution of zillah courts. This impression no longer prevails, and there can be little doubt that a vast many petty disputes which were formerly unredressed, or brought before the courts, are now settled by the heads of villages without being matter of record, and with little or no reference to the Regulations. The heads of villages are usually the most wealthy and most respectable men in the community, and, although generally illiterate, are fully capable of discharging in their own way, that is, without attention to form, the duties confided to them by the Regulations. It appears probable, however, that the influence of this class of people will decrease with the increase of wealth and general improvement in the condition of the great mass of people. I am only restrained from saying that this has decidedly been the case in Coimbatore, by the fact, that the office is as much coveted, and as much a subject of contest, as ever it was."

16. Mr. Woodcock, late judge of Salem, in which zillah are comprised the collectorates of Salem and Coimbatore, says: "With regard to the general character of the village moonsiffs and of their courts, I am somewhat at a loss how to report, as no list of them has ever been furnished to the court, nor have I any means of judging of their character and conduct but from what takes place judicially before me. By the accompanying Statement marked (B.), it would appear, that upon their first institution, in this zillah at least, they were much more resorted to than they are at present, which perhaps may be accounted for from the district moonsiffs having been, by Regulation II. of 1821, directed to hear and determine suits under 10 rupees, without receiving any fee. At the same time, it is satisfactory to know, that during the 10 years these courts have been in operation, only 13 petitions have been preferred against the village moonsiffs' decisions, and that these were principally complaining of the illegality of their proceedings, but in none of them were they accused of bribery or corruption."

17. Mr. Drury, late acting sub-collector in the Southern Division of Arcot, says: "With respect to the individual character of the village moonsiffs, it is satisfactory to state that few instances of abuse of authority appear on the records of this district against them." It would seem, however, that Mr. Drury speaks of these officers more as heads of the village police than as village moonsiffs. CENTRE DIVISION.

18. Mr. Viveash, late collector of Chingleput, says: "Few cases publicly appear in which the village moonsiffs' courts are regularly resorted to by litigant parties; the Talook moonsiffs' courts are generally preferred by the traders or money-dealers, to whom the cultivators are usually indebted. The moonsiffs, however, as heads of villages, are of very important use in adjusting matters of dispute between cultivator and cultivator; and as arbitrators or composers of differences, the heads of villages are with some exceptions confidently referred to."

19. Mr. Paske, judge of the zillah of Chingleput, which comprises the two collectorates of Chingleput and the Southern Division of Arcot, says that he is "inclined to think, from the small number of decisions by village moonsiffs reported to the court, that they do not generally exercise the authority vested in them by Regulation IV. of 1816."

20. Mr. Nisbet, late principal collector in the Northern Division of Arcot, or the Chittoor zillah, after alluding to an arrangement, long contemplated, but only very lately carried into effect, regarding the restoration of the ancient Manniems and merahs of the village officers, says: "As the village moonsiffs and curnums will now enjoy much larger salaries than they did, and will for the most part be persons who have a natural interest in the welfare of the community under them, there is every reason to hope that the general character of the village courts will greatly improve."

21. In the report from Mr. Waters, zillah judge of Chittoor, all that is material to the present purpose is, that numbers of the village moonsiffs in that district can neither read nor write, and are therefore entirely dependent upon the curnums in the discharge of their duties: that 10 only send to court the report required by Section xxxvii. Regulation IV. of 1826, and that the establishment altogether is in a very inefficient state.

22. Mr. Haig, the zillah judge of Cuddapah says: "With regard to the general character of the village courts, and of the moonsiffs who preside in them, the zillah judge can obtain no satisfactory information. Some few of these moonsiffs understand their duty, and send in their reports regularly; but in general they are not only ignorant of the duties of their office, but regardless of any orders or instructions issued to them through the district moonsiffs."

23. Mr. Smalley, the principal collector of Nellore, says: "No measures were spared for the purpose of rendering the village moonsiffs qualified to perform their duties; but as far as the principal collector and magistrate can learn, it appears that the village moonsiffs (although persons who collect revenue, and under whose authority the village servants act) do not possess much ability, almost the whole of them being incapable of reading and writing. Still, with the aid of the curnum, they transact business; and although in some instances they may deviate from the letter of the Regulations, they do it as correctly as could be expected, and perhaps in the best manner suited to the people." NORTHERN DIVISION.

24. Mr. Whish, the collector of Guntoor, says: "With respect to the general character of the village courts, it appears to the collector and magistrate that the moonsiffs who preside in them, excepting in a few villages, are persons not educated, and whose talents are unequal

to the conducting the inquiries they are authorized to make, in the formal and necessary manner required, either in civil or police cases. It is, however, obvious that many of them have, by degrees, become better qualified for the performance of their duties as heads of village police, as regularly as essential, under the instructions of the heads of district police. Some heads of villages, who are seemingly possessed of talent, even endeavour to avoid filling the office of moonsiff, from the fear of their being thereby prevented from bestowing sufficient time on their own affairs, while there are no emoluments attached to the office to remunerate them for the trouble. Secondly, they are fearful of falling into error in the execution of the business. It does not appear proper to enforce upon them at once the business they so much dread, and it is hoped that they will gradually fall into the way of it, and qualify themselves to perform every part connected with their duty."

25. Mr. Saunders, the zillah judge of Nellore, which zillah at the time of his report comprised the collectorates of Nellore and Guntoor, says: " It is also evident from the information that has been collected, that the village moonsiffs are in general illiterate and ignorant of the provisions of the Regulations that have been enacted for their observance in the discharge of their duty; and that very few of them are employed in investigating and deciding civil suits, is shown by the monthly and half-yearly reports, by which it appears that the average yearly number of suits disposed of by them, during the five years that have elapsed since the zillah of Guntoor has been united with that of Nellore, or from the 1st July 1821 to the 30th June 1826, has been only 233."

26. Mr. Roberts, late collector of Masulipatam, says, " that so far as absence of all complaint may lead to the inference that the conduct and character of the village courts are respectable, he has every reason to be satisfied, having in no instance received a complaint or insinuation of a contrary tendency."

27. Mr. Gardiner, the collector of Vizagapatam, says: " The village moonsiffs (with the exception of one at Ankapelly, who is an intelligent person, and performs his duty regularly and correctly) are unable to read and write, and are generally so ignorant as to be quite incapable of giving effect to the Regulations that have been framed for their guidance."

28. Mr. Cazalet, late collector of Ganjam, says: " It does not appear that the heads of villages in the Wodia Hill zumeendaries are acquainted with the contents of the Regulations, or have acted on them. Most of the naidoos of the villages in the low lands are only a very little acquainted with these Regulations, but are performing their duties as village police, to the best of their abilities."

29. Mr. Monk, late judge in the zillah of Chicacole, including the collectorates of Vizagapatam and Ganjam, says: " With regard to the general character of the men who are *ex officio* village moonsiffs, the zillah judge is sorry to be obliged to report that in this zillah there are but very few indeed that are capable of reading and writing, which perhaps, as much as prejudice and disinclination to comply with the forms and rules laid down in the Regulations for their observance, has been the cause of so few assuming the office. It might reasonably be calculated, that from the influence the sanction of Government may be supposed to give to this office, would induce the naidoos readily to undertake the proffered distinction; but it must be recollected that in the Northern Circars we have to deal with an extensive and lawless set of hill people, different perhaps to those to be found in other parts of India. They do indeed regularly pay their small stipend to the Circar, but for no other object than to prevent any opening for our interference in their rule or authority. In every other respect they are perfectly independent, tenacious of power, prejudiced to their ancient habits and customs, studiously shutting up all inroads to civilization, and looking down upon our institutions and authority with distrust and abhorrence, and not unfrequently setting them at nought. Of the seven village moonsiffs entered in the accompanying Statement, four are of the Vizagapatam district, and three of the district of Ganjam; of whom the four in the Vizagapatam district are incapable of reading and writing. Of the three in the Ganjam district, two are Brahmins, of course capable; the other was a Woodia, or hill person. The report of one of the Brahmins in August last, shows one cause decided, and one instituted; the other Brahmin and Woodia have ceased to make any reports to the court ever since it was stationed at Chicacole. The reports of the other village moonsiffs in Vizagapatam jointly show an average from about three to five causes instituted and decided monthly. It is however generally said, and believed to be the case, that the naidoos on the plains, to avoid the required forms and reports of causes before them to be made to the court, institute a summary and verbal inquiry; and if the defendant admits the justice of the claim made, they settle it amicably, and no more is heard of it; but if not, the parties are referred to the district moonsiff by the naidoo, and he declines any further interference: but of this mode of proceeding I have not been able to obtain any correct information. It is however remarkable, that although no more reports have been received from the persons who as naidoos must form a very extensive number of village moonsiffs, I am not aware of a single complaint having been made to the court, of a naidoo having refused to hear any complaint that might have been brought before him. The conclusion therefore to be drawn therefrom, I regret to say, must be, that the desirable object of the enactment has totally failed in the zillah of Chicacole, by the concurrent dispositions of its inhabitants."

30. Mr. Lewin, late acting judge of Seringapatam, says: " There is nothing very remarkable in the character of the village moonsiffs' courts. They decide a great many causes in their respective villages, in some zillahs more than in others, according to the forms laid down in Regulation IV. of 1816. They would decide more if there was any emolument attached

attached to the exercise of this authority, of course, which there is not; and in the time of cultivation, when they have but little leisure on account of their revenue duties as heads of villages, they are perhaps unnecessarily impeded in the discharge of their judicial functions, by the delays of forms laid down in a long Regulation of 39 sections, although the matter in dispute is limited to 10 rupees; and they are generally acquainted with all the circumstances of each suit before they enter on the disposal of it."

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31. Mr. Sheffield, the principal collector of Malabar, says: "The persons who have been appointed village moonsiffs appear, generally speaking, to be qualified to preside in the village courts; but as yet I am not prepared to offer an opinion regarding the character of those courts, for although the dashadakars were long ago furnished with the prescribed surmuds, and duly empowered in every respect to receive and determine civil suits, they commenced entering upon their repective duties so very recently, that until about four or five months ago, scarcely a single suit was preferred to any one of the village courts throughout the province."

32. Mr. Babington, the late principal collector of Canara, very fully details the measures which have been adopted in that district for giving effect to Regulation IV. of 1816, and he assigns the following as the principal causes of the difficulty which has been found in procuring the duties of the village moonsiffs to be regularly performed. 1st. Their ignorance of reading and writing. In another part of his letter he says: "Of the above 1,367 moonsiffs, there are very few that can read or write and carry on the business themselves; some can sign their names, and understand nothing more: but the majority of them are men who cannot read nor write, nor even sign their names." 2dly. Their getting no allowance of stationery, absolutely required in the preparation of the memorandum usually sent for the attendance of individuals, for decrees, for examinations of the parties, of the monthly accounts, &c. to be transmitted to the court, and other public reports. 3dly. Their getting no fees, nor any remuneration whatever, for the trouble of passing decrees and settling disputes. 4thly. Their liability to a heavy fine, in the event of the accounts of cases decided, and of those remaining undecided, not being regularly transmitted to the judge. It is right however to observe, that the levy of any fine in these cases is altogether unauthorized. 5thly. The difficulty experienced by the shanbogues in rendering the moonsiffs due assistance, from the circumstance of the former's appointment, which was originally confined to the revenue duties of his mogamy, having been considerably increased of late years by the addition of police duties, which are too extensive to allow of his conveniently attending to every village moonsiff who requires his assistance; the number of shanbogues, as appears in another part of his letter, being only 273. 6thly. The difficulty of securing the attendance of the aogranee at the moonsiffs' cutcherry, to execute his orders for the attendance of individuals before him, because the former has other avocations, which occupy all his time, such as the business of collections, &c. in the revenue department, the duty for which he was in the beginning exclusively appointed. It appears from another part of his letter, that there are only 429 aogranees. Mr. Babington then observes, that "although the salary of the village moonsiff is trifling, and no sort of fee is allowed him, yet the responsibility and influence of the situation are such as to induce many individuals to hold it who can afford to dedicate their time gratuitously to the office. By far the greater number, however, consider the duty to be a hardship upon them, and would willingly give it up; many tender their resignation of the potailship, which they have long held, in order to get rid of the duty of moonsiff, and the expense and loss of time which attend that duty." Mr. Babington then suggests several modifications of the establishment, among which is that of decreasing the number of village moonsiffs to one-third of the present number; by which means, he adds, "we should be able to retain those in general who can read and write, and thereby diminish the existing impediments to the proper discharge of the duty. The frauds practised by intriguing shanbogues on this class of native officers, in consequence of their ignorance of writing, are more extensive than any one not daily in the habit of witnessing it could conceive, and every measure that tends to check this system must be an improvement."

33. Mr. John Vaughan, zillah judge of Canara, after noticing the inadequacy of the shanbogue establishment in point of numbers, and the impossibility of their performing the duties required of them by Regulation IV. of 1816, in addition to their revenue duties, says, "As such is the case, I need hardly add that the village moonsiffs being, in a considerable degree, deprived of the aid which the Regulations prescribed that they should receive, do not regularly transmit the required reports; those sent are frequently erroneous; decisions are passed by them without that check or assistance which the prescribed presence of the curnum (with copies of the Regulations for their guidance) is intended to effect; and, in short, I believe that irregularity so naturally to be expected as the consequence, is the general characteristic of their proceedings. Five or six decrees, without the counter signature of shanbogues, have lately come under my notice. In some of the northern talooks, many of the potails being brahmins, some are able to write their own decrees; and there can be little doubt that in such cases their labour is not gratuitous; but when they are unable to write, they are said to employ writers, who receive a remuneration from the persons in whose favour the decree may be passed. This information is not before me in an official shape, and of course is not likely to be so; but it appears to be not in the least contrary to probability; and the source from which I received it entitles it to credit. The statement in the margin exhibits the extraordinary fact of suits of many years' (no less than 208 of nine years') standing

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standing being still pending before the village moonsiffs; although I conceive that when Regulation IV. of 1816 was framed, it was never contemplated that suits would remain undecided for as many months, or even weeks. It seems useless for the court to attempt to take notice of any such irregularities, while clause 3. section iv. Regulation IV. of 1816 protects the moonsiffs even in contempt of its authority. Complaints of their disregard of the orders of the district moonsiffs have been repeatedly made to the court, but there appears to be no remedy while that section exists. The proved actual receipt of money, or their exceeding their powers of fine and imprisonment, alone appear to subject them to the interference of the court, according to the above provision and section xxxv." Mr. Vaughan then specifies several instances in which the village moonsiffs have evaded the restriction upon the amount of claims cognizable by them; and he remarks upon the inadequacy of the remedy provided in these cases and others, in which the Regulations are infringed. He observes, that the local peculiarities of Canara and Malabar oppose a great obstacle to the beneficial operation of the village moonsiffs' Regulation; and points out several abuses which may be successfully practised in those districts. He then submits a plan for remedying the defects of the system as applicable to Canara, the merits of which it is not necessary to be discussed on the present occasion; but the benefits which, as he expects, would result from it, are thus enumerated in the concluding paragraph of his letter: "Be it considered that I propose to substitute 209 judicatories for 2,128, which ought to exist, according to Regulation IV. of 1816. If the places of holding them are carefully fixed in the centre of each mogamy, no inconvenience can be felt by parties in suits; the court having to deal with such a considerably smaller number of responsible persons, (the shanbogues being answerable for regular proceedings) must be proportionably relieved of trivial though troublesome duty; general regularity is more likely to be maintained, publicity of proceedings secured, the capricious delay of moonsiffs annihilated, promptitude of decision systematically provided for, the corrupt influence of shanbogues materially checked, and the probability of honest decisions considerably promoted."

34. The information afforded by the foregoing extracts is not in general, perhaps, so full nor so satisfactory as could have been wished, but it is the best that the judges have been able to procure. It will be seen that those officers in the provinces who are inclined to represent the character of the village moonsiffs in the most favourable light, still allow that they are for the most part very illiterate, and that in the disposal of the lawsuits brought before them, they attend but little to the provisions of the Regulations. The prevailing opinion, however, seems to be, that these functionaries are generally unfit to discharge the duties assigned to them as village judges, and that their courts are not held in much estimation, are but little resorted to; an opinion which appears to be confirmed by a comparison of the number of causes disposed of in the village courts with the number of similar causes decided by the district moonsiffs.

35. In the years 1825, 1826 and 1827, the number of causes disposed of by the village moonsiffs amounted in the aggregate only to 14,457,* while the number of suits for 10 rupees and under decided in the same years by the district moonsiffs was 44,768.† The disproportion, however, will appear much greater, if the Western Division, in which the decisions by the village moonsiffs very considerably exceeded those of the same description by the district moonsiffs, is thrown out of the account. In the three other divisions, the decisions by the district moonsiffs amounted to 41,807, while those of village moonsiffs were only 9,385. It is to be presumed, however, that as the village moonsiffs are restricted to suits for sums of money or other personal property, some of the causes brought before the district moonsiffs, which from their amount appear cognizable by the village tribunals, were for real property, but the number cannot be large, nor materially affect the comparison.

* *See* Statement (C.)
† *See* Statement (D.)

36. It would be going too far to say that the disproportion between the work brought before the village and that brought before the district moonsiffs, is attributable solely and exclusively to the preference manifested by the natives to the courts of the latter; because from the information before the court, it would appear, that a disinclination to undertake the office of moonsiff prevails to a great extent among the heads of villages, and that, in point of fact, comparatively few willingly perform, and many have positively refused to perform, the duties assigned to them. This, of course, may be supposed to have contributed largely to the institution of so many petty suits before the district moonsiffs; but in the provinces, most of the petty suits which come before a legal tribunal, are those in which the monied interest, or the village and district bankers, sue the ryots and cultivators, who are usually the defendants. In such suits, the village judge, however just, must be liable to a bias in favour of his fellow cultivators. It is, therefore, natural that the opposite party should prefer the district to the village court; more especially as the very distance of the former, by increasing the inconvenience of litigation to the party sued, may be held out by the suitor *in terrorem* to his other debtors, in order to induce payment of their just debts without recourse to law. Whilst, therefore, the village moonsiff may compose many village feuds, and allay many disputes between ryot and ryot before they ripen into a lawsuit, the judges are of opinion, that when recourse to law is determined on, the suitor, from a knowledge of his bias in favour of his fellow cultivators, or from his influence having already been exercised against the suit, is inclined to prefer another tribunal; and that this has operated very extensively in influencing the resort to the district in preference to the village courts.

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In respect to one zillah, there is on the records of the sudder court clear and indisputable evidence of this fact; the more remarkable, because it is at variance with the conclusion which might otherwise be formed from the collector's favourable report on the village moonsiffs in that district. In a letter to the Provincial Court, dated the 6th October 1823, Mr. Bird, then zillah judge of Salem, says, "Out of 1,788 causes depending before the Dharapooram and Yatapoor moonsiffs on the 31st August, no less than 1,215 were suits for the recovery of trifling debts under 10 rupees, all of which should be preferred to the village moonsiffs; but it appears, that not only in Dharapooram and Yatapoor, but also generally throughout Salem and Coimbatore, the people will not carry their suits to the village moonsiffs; and having the option of preferring them in the courts of the district moonsiffs, those of Dharapooram and Yatapoor, in particular, have become overwhelmed with trifling cases, almost to the total obstruction of important business; and I see no way of remedying the evil, unless Regulation VI. of 1816 can be modified, and the moonsiffs be restricted from trying suits for any amount under 10 rupees." And in a subsequent letter, dated 10th June 1824, Mr. Bird alludes again to "the apparent determination of the people not to have recourse to the village moonsiffs." Here then is decisive proof of a strong preference shown for the courts of the district moonsiffs, and the judges think it may fairly be presumed, that a similar preference has been more or less manifested in all the other zillahs. Upon the whole, therefore, they are justified in saying, that experience has confirmed the correctness of the opinion expressed by the sudder court in 1818.

37. Neither the curnums nor other village servants receive any compensation for the duties performed by them under Regulations IV. and V. of 1816. The privileges and allowances which they possess were originally granted as a remuneration for their services generally, which, until the enactment of the Regulations above mentioned, were chiefly confined to the revenue department.

38. On the promulgation of Regulations IV. and V. of 1816, a translation was sent to the tehsildar of each district, with directions to summon the curnums of all the villages within his jurisdiction, and to cause them to take a copy. It would appear, however, that in some districts these orders were not fully carried into effect, and that in others the copies taken by the curnums have been lost or destroyed. Measures would appear to have been adopted to supply copies where they have been found wanting.

39. Upon the whole, it seems pretty clear that the objects contemplated in the establishment of the village tribunals have been but imperfectly accomplished. That they have operated at all to lessen the business of the zillah courts, is extremely questionable. Very few, if any, of the causes which they have disposed of would have found their way into the zillah courts. Most, if not all of them, would have been brought before the district moonsiffs; and the whole might have been transferred to the courts of the latter without serving, in any material degree, to clog their operations. The average decisions by village moonsiffs for six years, viz. from 1822 to 1827 inclusive, is something less than 4,000 per annum; and it is obvious that the addition of this number to the files of the district moonsiffs, the average of whose decisions, for the same time, is 52,570 per annum, could hardly have been felt, supposing them equally divided; each district moonsiff, 95 in number, would not have received an addition of more than 43 per annum; a mere trifle compared with the average yearly decisions of each, one with another, viz. 553; and if they had been unequally divided, as no doubt they would have been, the increase to the file of most of them would still have been comparatively light. The instances in which it could have had the effect of delaying the decisions of the district moonsiffs to such an extent as to induce litigants to resort to the zillah courts in preference, would not have been many; and the appointment of a few additional district moonsiffs would have offered an easy and simple remedy.

40. Then in consequence of the comparatively small extent to which the village courts have been resorted to, their operation in diminishing the expense of litigation in petty suits has been very limited, and has fallen far short of what at first must have been anticipated. It matters little whether this object of the institution has been defeated partially, at least, by the neglect or refusal of the village moonsiffs to perform the duties assigned to them, or by the repugnance of suitors to have recourse to these tribunals. It is to these two causes chiefly that the apparent inaction of these courts is to be ascribed; and any attempt to counteract the effect would meet with little success, and would perhaps be attended with an appearance at least of injustice. Looking, on the other hand, to the readiness and confidence with which the natives generally have had recourse to the district moonsiffs for the settlement of their petty controversies, the judges think that every object proposed by the establishment of the village courts might be attained without trying to exact from heads of villages what they, at least, consider a service purely gratuitous, or to compel suitors to resort to courts which they hold in little estimation.

41. Neither would it appear that the causes brought before the village moonsiffs are in general very speedily disposed of. Of the 304 causes depending in the Southern Division on the 1st January 1827, 2 were filed in 1820; 11 in 1821; 13 in 1822; 21 in 1823; 35 in 1824; 54 in 1825; and 168 in 1826. The returns from the other Divisions are not so specific on this head: but if the number depending in each be compared with the number disposed of in the year preceding, the arrear will appear much larger than it could possibly be if the suits were generally disposed of with any thing like the expeditiousness which, considering the nature of them, might reasonably be expected.

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Second Head.

2d. Similar information is desired respecting the courts of the district moonsiffs provided for by Regulation VI. 1816, (and by any subsequent regulation), with special reference to the enlarged powers vested in the district moonsiffs by Section iv. Regulation II. 1821.

42. It was not considered necessary to make any reference to the authorities in the provinces respecting the general character of the district courts and of the moonsiffs who preside in them. The high estimation in which they are held by the natives, and by those public officers who have the best means of judging of their character and efficiency, is abundantly attested by the quantity of work brought before them, and by the applications which have been made, from time to time, for additions to their number. The accompanying Statements show that the number of district moonsiffs in the four divisions under this *See* Statement (E.) Presidency is 95. They have been selected principally from the most intelligent and meritorious servants of the zillah and other courts; and their proceedings and general conduct are so open to the observation of the collectors and their subordinates, and of the zillah judges, that no serious malpractices on the part of any of them can long escape detection. Some instances of incapacity and misconduct have occurred among them, but not more than was to be expected, nor of a nature to affect their character as a body.

See Statement (F.) 43. The accompanying Statement exhibits the number of suits disposed of by these functionaries, with the number depending before them at the beginning of each year from *See* Statement (G.) 1817 to 1827 inclusive; and the accompanying Statement shows the years in which the suits depending on the 1st January 1828, were instituted.

44. The judges were desirous of making a comparison between the number of decisions by these officers in appealable suits, and the number of appeals actually preferred from them; but the defective form of the returns compels them to confine the comparison to suits between 200 and 500 rupees. The form of the reports, which has since been altered, was originally framed for the purpose of showing the number of suits which, though cognizable by the village courts, were brought before the district moonsiffs, and the number cognizable by the latter officers under Regulations VI. of 1816, and II. of 1821, respectively. Their decisions, therefore, are classed under three heads, viz. suits for 10 rupees and under, suits between 10 and 200 rupees, and suits between 200 and 500 rupees; and the present Statements afford no means of ascertaining the number of their decisions in suits for 20 rupees and under, from which there is no appeal except in claims for real property. But, limited as the comparison is, it appears to be satisfactory in the highest degree. On reference to *See* Statements (D.) & (H.) the accompanying two Statements, it will be seen that in the years 1825, 1826 and 1827, the district moonsiffs disposed of 4,572 suits between 200 and 500 rupees; and that in the same years 627 appeals from their decisions in suits of that description were disposed of in the zillah courts. It must be observed, that in these years the number of appeals disposed of *See* Statement (I.) exactly corresponded with the number preferred; for from another Statement which has been prepared, it appears that the number of appeals of this description depending on the 1st January 1825 and 1828 respectively, was the same, viz. 142.

See Statement (J.) 45. Another Statement which has been prepared, and which is considered also satisfactory, shows that in the years 1825, 1826 and 1827, the aggregate number of appeals from the decisions of the district moonsiffs disposed of in the zillah courts, was 4,009; that in 2,031 appeals, the original decisions were confirmed, and in 1,490 reversed; the remainder, amounting to 488, having been dismissed for default, or adjusted by razeenamah.

46. It appears then, as far as respects the years above mentioned, that the appeals preferred from the decisions of the district moonsiffs, in suits between 200 and 500 rupees, were nearly in the proportion of one to seven; or if the number of suits adjusted by razeenamah, viz. 1,062, be deducted from the total number disposed of, the appeals will be in the proportion of one to about five and a half, and that the original decisions were confirmed in more than one half of the aggregate number of appeals disposed of in those years.

47. It seems unquestionable that every object proposed by the appointment of these functionaries, and by the subsequent enlargement of their jurisdiction in 1821, has been fully attained; but it is impossible to estimate the extent of the relief which they have afforded to the zillah courts, because it is probable that many of the causes which have appeared on their files would never have been referred for judicial determination at all, had the district tribunals not existed.

Third Head.

3rd. Similar information respecting the village punchayets provided for by Regulation V. 1816, and district punchayets provided for by Regulation VII. 1816; and any subsequent Regulations.

See Statement (K.) 48. From the accompanying Statement of causes disposed of by village and district punchayets from 1817 to 1827 inclusive, it will be seen that this mode of settling disputes has been very little resorted to by the natives. In the first five years after the promulgation of Regulations V. and VII. of 1816, village punchayets disposed of 738 causes, and in the last six years, of 199 only. In the first five years 290 causes were disposed of by the dis*See* Statement (L.) trict punchayets, and 215 in the last six years. The accompanying Statement shows the years in which the causes depending before village and district punchayets on the 1st January 1827 were referred to them.

49. Under Regulations V. and VII. of 1816, the assent of both parties is requisite for the reference

reference of a suit to a punchayet; and no doubt, in refusing his assent, a party may often be influenced by motives distinct from a general distrust of a punchayet's impartiality and integrity; but considering that parties in suits referred to village punchayets are not chargeable with any costs whatever, and that the costs chargeable in suits referred to district punchayets are very considerably less than when they are decided by district moonsiffs, it was natural to expect that with these advantages, arbitration would be more generally resorted to. The result of the experiment seems to warrant the conclusion, that with the great mass of the people, this mode of settling lawsuits is held in little estimation; and it can now hardly be doubted that its prevalence in former times was a matter of necessity, from the want of other tribunals, rather than the effect of a prepossession in favour of an ancient institution. But be that as it may, it is clear that the practical operation of these enactments has been extremely limited; and looking to the fact, that in the first years the references to punchayets were much more numerous than they have been since, it seems very probable that if the numbers of district moonsiffs were increased, so as to make their courts more easily accessible to the people generally, village punchayets, as well as the village courts, would fall into disuse altogether; and as the division of labour would enable the district moonsiffs to dispose more promptly of the causes brought before them, an additional motive would be supplied for resorting to them in preference to arbitration, and it is likely that the references to district punchayets would be greatly reduced in number.

Fourth Head.

4th. Similar information respecting the courts of sudder ameens, provided for by Regulation VIII. 1816, and any Regulations subsequently enacted, including Section iii. Regulation II. 1821.

50. The accompanying Statement shows the number of sudder ameens attached to the different courts in the four divisions under this Presidency, as they stood on the 1st January 1827. *See* Statement (M.)

51. The accompanying Statement shows the number of original suits and appeals disposed of by the sudder ameens, with the number depending before them at the beginning of each year from 1817 to 1827 inclusive; and the accompanying Statement shows the years in which the suits depending before them on the 1st January 1828, were referred to them. *See* Statement (N.) *See* Statement (O.)

52. It appears, that in the years 1825, 1826 and 1827, the sudder ameens disposed of 20,272 original suits and appeals; and another Statement which has been prepared shows, that during the same years the appeals from their decisions amounted in the aggregate to 2,085; that in the appeals actually disposed of in those years, amounting in the aggregate to 1,749, the original decisions were confirmed in 877, and reversed in 543; the remainder, amounting to 329, having been dismissed for default, or adjusted by razeenamah. *See* Statement (P.)

53. The result of this comparison appears extremely satisfactory. It is perhaps to be regretted, that the Statements do not enable the court to distinguish between the regular and the special appeals; but, supposing the appeals preferred to have been all regular appeals from decisions in original suits, the comparison would still be satisfactory. It would show only one appeal in eight decisions; the original suits disposed of amounting to 17,510, and the appeals, as stated before, being 2,085, in one half of which the original decisions were confirmed.

Fifth and Sixth Heads.

5th. His Lordship in Council requests to be furnished with a general statement of civil suits determined by or adjusted before the European courts, (viz. those of the zillah judges and registers, the provincial courts, and the court of sudder adawlut,) in the year 1825, and the number of suits depending in each of those courts respectively on the 1st of January 1826.

6th. Also with a comparative statement showing the number of suits decided in each of the courts above mentioned in the year 1815, and the number depending on the 1st January 1816.

54. Accompanying are the Statements called for under these two heads. *See* Statements (Q.) & (R.)

55. It will be observed, that in the year 1815, there were 22 zillah courts, to four of which assistant judges were attached. In that year the total number of causes disposed of by the European officers of those courts amounted to 7,928; viz. 1,355 appeals, and 6,573 original suits; and on the 1st January 1816, there were depending before them 2,088 appeals and 4,402 original suits, making a total of 6,490. In the year 1825 there were 13 zillah courts only, the European officers of which disposed of 3,065 causes, viz. 1,082 appeals and 1,983 original suits; and on the 1st January 1826 there were depending before them 1,499 appeals and 1,161 original suits, making a total of 2,660.

56. It would appear that notwithstanding the vast quantity of litigation disposed of in the courts of the district moonsiffs, numerous causes cognizable by them find their way to the zillah courts. Of the 1,983 original suits disposed of by the zillah judges and registers in 1825, no less than 1,390 were for an amount or value not exceeding 500 rupees: and of the 6,199 original suits disposed of by the sudder ameens in that year, no less than 6,033 were, in like manner, for an amount or value cognizable by the district moonsiffs. The zillah courts, in which the greatest number of causes of this description were thus disposed of, *See* Statement (S.)

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of, are those of Bellaree, Cuddapah, Masulipatam, Chicacole, Salem, Canara and Malabar; but it appears that the arrears depending before the district moonsiffs of those zillahs on the 1st January 1825, were much heavier than those of the others, although their decisions are generally more numerous; and perhaps the loaded state of the district moonsiffs' files operated, in some degree at least, to induce the litigants in the cases above mentioned to resort to the zillah courts.

57. No observations suggest themselves upon the other Statement.

SEVENTH HEAD.

7th. The Governor-general in Council wishes to be informed contained in Regulation IX. 1816, and in any subsequent regulation for transferring the office of zillah magistrate, to the collector, have proved efficient, and free of objection or otherwise, especially in maintaining a good police, in facilitating the apprehension and expediting the trial of persons charged with criminal offences. Under this head, his Lordship in Council wishes to know to what extent the assistants to the collectors are employed in magisterial duties; and whether those duties, in particular districts and at particular seasons, are not chiefly entrusted to the assistants.

58. The superintendence of the police and the office of zillah magistrate were transferred to the collectors with the view of facilitating the administration both of civil and criminal justice. It was thought that the police in their hands would be more efficiently administered, and that the zillah judges, being relieved from that charge and from the cognizance of petty offences, would be enabled to devote a larger portion of their time to the performance of their civil duties.

59. The subject of police, as administered by the collectors, will be more conveniently considered under the Ninth Head of inquiry; and the judges will now confine themselves to the effects of the measure of transferring to them the office of zillah magistrate.

60. It seldom happens that the magistrates or their assistants interfere at all with the preliminary investigation in cases in which they have not the power to inflict punishment. In such cases the informations are, for the most part, taken by the native heads of district police, who either release the accused persons, or forward them direct to the criminal judge: and, in point of fact, the exercise of magisterial functions by the collectors and their assistants, is limited to the trial of petty offences punishable by themselves, without reference to higher authority, except in cases where the graver crimes may be committed by the same persons in different talooks of the same zillah, or in several distinct zillahs, over which the jurisdiction of a single native does not extend.

61. It appears proper to consider the operation of this part of the system, as it regards, 1st, the punishment of petty offences; and, 2dly, the taking of informations in cases wherein the power of punishment rests with the superior tribunals.

62. Open to objection as the measure of vesting collectors with the power of punishment undoubtedly is, on many accounts, the judges are still inclined to think that upon the whole it has operated beneficially in practice, notwithstanding the abuses to which it is confessedly liable, and the instances of abuse which have been brought forward to public notice. It has increased in each district the number of tribunals for the redress of petty wrongs; and though these tribunals are not equally distributed over the several zillahs, they are easily accessible to a large portion of the population, and have thus far served to afford greater facility to individuals complaining of petty offences committed on their persons or property. Under the former system, offences of this description were punishable only at the sudder station of the zillah; and the sufferers must often have been induced to submit in silence to petty injuries, rather than aggravate them by the expense and inconvenience of a long journey. It must not be disguised, however, that the higher courts have very imperfect means of judging of the manner in which the magistrates and their assistants exercise this power. It is true that under Section xl. Regulation IX. of 1816, calendars of the persons released and punished by them, accompanied with all the original proceedings in each case, are required to be laid before the judges on circuit, at the several sessions of gaol delivery; but this provision has been rendered almost, if not entirely, nugatory, by the enactment of Sections vii. and viii. Regulation IV. of 1821, whereby the magistrates are relieved from recording the evidence taken in the investigation of complaints preferred to them, under Sections xxxii. and xxxiii. Regulation IX. of 1816, and from including in their calendars returns of any punishment adjudged by them under Section xxxii. or of any adjudged under Section xxxiii., which may not exceed imprisonment for ten days, or six strokes with a ratan. All that a bare list of this sort enables a judge on circuit to do, is to see whether a magistrate has punished for offences not punishable by him, and whether any of the punishments inserted in the list are greater than a magistrate is authorized to inflict under the Regulations; but if, on the complaint of a party, it becomes a question whether a punishment has been adjudged on insufficient evidence, or without any evidence at all, it is obvious that a satisfactory investigation of the complaint is entirely precluded by there being no record of the evidence on which the magistrate proceeded.

63. Complaints of the proceedings of the magistrates are not unfrequently made to the collective court of circuit; but the collective court has no power to interfere, and the parties are referred to the judge actually on circuit. Some instances have come under the personal observation of one of the judges, when formerly in the circuit court, in which these

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these rejected complaints have not been brought to the notice of the judge on circuit; and perhaps the reason is, that in many of these cases, such as when a man has been unjustly sentenced to imprisonment, or required to find security, redress to be effectual must be immediate; and the act complained of having ceased to operate before the arrival of the circuit judge at the zillah station, the party thinks it useless to give himself any further trouble. The Court of Circuit and the Foujdarry Adawlut, in the exercise of their controlling authority over the criminal judges, have often occasion to interfere for the purpose of correcting mistakes; and it is no disparagement to the present magistrates to suppose that if their proceedings were subjected to the same supervision as those of the criminal judges, and the same facility of complaint were afforded to persons conceiving themselves aggrieved by their acts, occasions for the interposition of the controlling power would be equally frequent. Indeed the judges decidedly think, that the existence of such a controlling power in the superior courts is indispensable to the due administration of justice.

64. The punishments inflicted by district police officers are subject to revision and control only by the magistrates; and if a judgment may be formed from the manner in which they exercise other functions entrusted to them, there cannot be a rational doubt that the authority of fining, imprisoning and flogging petty offenders is greatly abused. In point of fact, it is not going too far to say, that their proceedings as petty magistrates are subject to little effective revision or control, for by section x. Regulation IV. of 1821 they are exempted from the necessity of recording the evidence in cases wherein they are competent to punish; and without such a record any inquiry into the propriety of their proceedings must be utterly useless. The futility of any attempt of this sort, and the little reliance that can be placed on any reports furnished by these officers, are strikingly illustrated by a case which occurred in the Southern Division in 1825. From the half-yearly statement transmitted by a magistrate in that division, it appeared, that although 217 persons had been convicted and flogged, or imprisoned by the district police officers, not a single person had been acquitted by them. Concluding that the statement must have been erroneous in this particular, the provincial court called upon the magistrate for explanation, and his answer was, that having again attentively examined the police reports, he found the abstract statement to be correct. Another abstract statement, transmitted by the same magistrate at the same time, which seems to have escaped the notice of the provincial court, exhibited 685 persons convicted and fined by the district police officers, while there was only one acquitted by them. There is no room to doubt that the abstract statements in question were correctly prepared from the reports furnished by the police officers; but no man can be found credulous enough to believe that of the 903 persons brought before the district police officers on charges cognizable by them, all but one were properly convicted and punished, and that during six months there was only one complaint preferred to them which was false, or unsupported by sufficient proof.

65. The court of Foujdarry Adawlut have, in numerous instances, had occasion to notice the gross falsification of dates made by police officers in order to conceal their violations of the Regulations in respect to the time during which they are allowed to detain an accused person in custody before forwarding him to the criminal judge; and it is impossible, in most instances, to place any reliance on the reports furnished by them, as prescribed by section xxvii. Regulation XI. of 1816. There is, in fact, scarcely a trial that comes under the consideration of the Foujdarry Adawlut, which does not exhibit gross irregularities on the part of the police officers, and gross violations of the rules laid down for their guidance; and as these irregularities are persisted in, notwithstanding the repeated animadversions of the superior courts, it is surely not too much to infer, that their malpractices are equally great in cases wherein their conduct is comparatively much less subject to supervision and control.

66. It has been said before, that the duty of taking informations in cases wherein the power of punishment rests with the superior tribunals, is for the most part performed by the district police officers; and the efficiency or otherwise of this branch of the magisterial functions is next to be considered.

See Statements (T.) & (U.)

67. By the accompanying Statements which have been prepared, showing the number of persons brought before the several courts of circuit on charges of murder, robbery and murder, robbery, housebreaking and theft, in the years 1813, 1814 and 1815, and in the years 1825, 1826 and 1827 respectively, it appears that the acquittals by the courts of circuit during the first period amounted only to 1,353, while the convictions amounted to 2,698. In the second period, however, the acquittals amounted to 2,522, while the convictions were only 1,004. In the court of Foujdarry Adawlut the convictions and acquittals bore nearly the same proportion to each other in the two periods; the acquittals in the first period amounting to 355, while the convictions were 409; and in the second period the acquittals being 566, while the convictions were 726.

68. The extraordinary difference between the result of the trials before the courts of circuit in the two periods above mentioned, appears to be chiefly attributable to the lax and irregular manner in which the preliminary investigations are but too often conducted by the native district police officers, upon whom, in practice, this important duty for the most part devolves under the present system.

69. It is very probable that the proceedings of the former native police officers were as defective and irregular as those of the present; but it must be borne in mind that in the due preparation of a case for trial much less depended upon them, and that the errors and defects of their proceedings, whatever they might be, admitted of easy and immediate correction by the committing magistrate, who himself went into the first regular investigation of the offence

charged, and could, of his own authority, procure the immediate attendance of all the witnesses whose evidence he might think desirable. Under the present system the course of proceeding is different. The district police officer is required to enter into a full investigation of the case in the first instance, and to take the examinations, but not on oath, of all who may be able to give material evidence. In theory this appears calculated to save a great deal of time, and to facilitate and expedite the commitment of offenders for trial, but in practice it has been found that these desirable objects have not been fully attained.

70. In the majority of trials that are referred to the Foujdarry Adawlut, an alleged confession before the district police officers appears; and, of course, it is the same in the majority of cases disposed of by the courts of circuit. That these alleged confessions are often obtained by undue means, and that many are mere fabrications, there is not the smallest room to doubt. But the evil does not stop here. Where there is a confession, or pretended confession, almost always the examinations before the police officer contain very little direct or circumstantial evidence. The instances in which police officers neglect to examine the most material witnesses are very numerous; and whether this happens through ignorance or design on their part, the consequences are the same. On these occasions the committing officer is obliged to call for further evidence before he can dispose of the case, and his requisition for this evidence must usually be made, not immediately to the police officer who held the preliminary inquiry, but to the magistrate, who is perhaps at the end of the district; for though, under Regulation I. of 1824, he can issue direct a summons for any witness in a case sent in by the police, he has not a sufficient establishment to issue summons to all required to attend from remote parts of an extensive zillah; and it is the local police only (with whom he is prohibited from communicating, except through the channel of the magistrate) that can in general point out the person on whom the citation should be served. A great deal of time is thus unnecessarily lost. Besides this, when a case has been imperfectly investigated in the first instance, when there has been neglect in taking evidence to material facts, it rarely happens that the deficiencies can be supplied by subsequent proceedings. The attempts of the committing officer to procure the additional evidence required are often altogether unavailing, or are only partially successful; and the consequence is, that numerous commitments take place on evidence barely sufficient to warrant them, and trials often terminate in the acquittal of persons who but for the irregularities and defectiveness of the primary investigations by the police officers would probably have been convicted.

71. That the actual convictions should bear so small a proportion to the commitments, is an evil upon the consequences of which it is quite unnecessary to expatiate. The judges apprehend that it is mainly attributable to the causes which have been stated, and that this important branch of the administration of criminal justice requires to be placed on a better footing, by the adoption of measures to ensure more efficient preliminary inquiry by the district police. It is probable that the defect here pointed out would in some degree be diminished if the preliminary investigation of heinous offences were more frequently conducted by the magistrates and their assistants; but there are very few who could give more time than they now do to the discharge of their magisterial functions, without serious interruption to their revenue duties; and, after all, their direct interference could never extend beyond the talook in which they might happen to be, without considerable inconvenience to prosecutors and witnesses.

72. It seems very questionable whether, in point of fact, the transfer of the police and of the office of zillah magistrate has enabled the zillah judges generally to devote a larger portion of their time to the discharge of their civil duties. The reduction in the number of courts which immediately followed, tended to defeat this object in the consolidated zillahs; and in the others, where the extent of local jurisdiction remained the same, it is very probable that the difficulties and embarrassments produced by the loose and irregular proceedings of the police officers, have in general compelled the zillah judges to give as much of their time and attention to the performance of criminal business as they did before. At all events it is certain, that there has been a remarkable decrease in the average number of civil suits disposed of annually by the respective zillah judges; a fact which is not sufficiently accounted for by the general reduction of their files, because, with two or three exceptions, the files are not reduced so low as to produce this effect. It is also certain, that a press of criminal business is almost always assigned as one of the causes which have prevented a greater number of decisions; and as far as the information of this court extends, they have no reason to doubt that the zillah judges are fully as assiduous in the discharge of their duty as they were formerly.

73. Another point of great importance connected with this subject, is the time that elapses between the apprehension of supposed offenders, and the disposal of them. The long detention of prisoners by the police officers was particularly noticed in the report of the Sudder Adawlut, dated 21st September 1818; and the evil, if it has not increased, has certainly not diminished within the last ten years. There are few of the quarterly reports transmitted to the court of Foujdarry Adawlut that do not exhibit numerous cases in which prisoners are detained by the police officers for weeks, and in some instances for months, before they are sent to the criminal judge; and it very seldom happens that the reasons assigned for the delay are by any means satisfactory. They are often frivolous in the highest degree, or such as have been repeatedly denounced as insufficient and inadmissible, and the exertions of the courts of circuit and the Foujdarry Adawlut to correct these irregularities, have been attended with little if any success. The failure is, no doubt, mainly attributable to the want of power in the superior courts to punish the police officers

for

for these irregularities. All that the superior courts can do, is to bring them to the notice of the magistrates, who, in the exercise of the discretion which must necessarily be left to them, can hardly be expected to visit with much severity the delinquency of a police officer, whose services in the revenue department are perhaps of the highest value.

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74. The accompanying Statement shows the number of persons under examination before the criminal judges on the 1st January 1825, 1826 and 1827 respectively. Owing to the scarcity in 1824, the number of persons brought before the criminal judges in that year was unusually large, amounting altogether to 16,888; in 1825 the number was reduced to 9,713; and in 1826, to 6,228; and this appears to account sufficiently for the decrease in the number under examination in the years 1826 and 1827.

See Statement (V.)

75. For the purpose of ascertaining to what extent the assistants to the collectors are employed in magisterial duties in the several districts, the magistrates were respectively called upon for statements, from which the accompanying general Statement has been prepared. The returns were obviously incorrect in several particulars, or at least cannot be reconciled with other statements furnished through the provincial courts; but it is sufficiently correct to answer the purpose for which it was principally required.

See Statement (W.)

76. It appears that in 1825 the whole of the magisterial duties in the Cuddapah and Tanjore districts were performed by the assistants; and that in the Bellaree, Chittoor, Masulipatam, Rajahmundry and Canara districts, by far the largest portion was assigned to them. By Regulation IX. of 1818, magistrates are empowered to delegate to their assistants the whole or any part of their duty; and if the power is exercised with discretion and caution, no harm seems likely to result from it. It appears, however, that in the districts above specified, the measure has been too largely resorted to.

Eighth Head.

8th. How far the provisions made by Regulation X. 1816, and by any subsequent Regulation, for constituting the judges of the zillah civil courts to be also criminal judges in their respective zillahs, have answered the purpose intended by them, and have been found by experience to promote the general administration of criminal justice.

77. When the zillah judges were first constituted criminal judges of their respective zillahs, no enlarged powers were given to them. They were simply relieved from the superintendence of the police and the cognizance of the petty offences, which under the provisions of Regulation VI. of 1802, was originally vested in the magistrates; and their functions were limited to the duty of committing for trial before the courts of circuit, and the exercise of the additional powers of punishment which had previously been granted to them by Section xiv. Regulation IV. of 1811. Their powers have since been enlarged by the enactment of Regulation VI. of 1822, and I. of 1825, by which they are authorized to take final cognizance of all unaggravated cases of housebreaking, where the property stolen does not exceed 100 rupees, and of all cases of simple theft not exceeding 300 rupees, together with some other minor offences which were before cognizable only by the courts of circuit.

78. How far the objects originally contemplated in constituting the zillah judges to be criminal judges of their respective zillahs have, in the opinion of the judges, been accomplished, will be seen from the observations which have been made under the Seventh and Ninth Heads of inquiry; but there can be no doubt that the subsequent enlargement of their powers has been attended with all the advantages expected from it, and that it has operated very materially to promote the general administration of criminal justice.

Ninth Head.

9th. How far the rules contained in Regulation II. 1816, or in any subsequent Regulation, for the establishment of a general system of police throughout the territories subject to the Government of Fort St. George, have been found efficient and successful in accomplishing the objects intended by them.

79. Upon the expediency of relieving the zillah judges from the superintendence of the police, there cannot be any question. Their duty requires them to remain at the sudder station of the zillah; and of course they cannot exercise that active vigilance over the subordinate officers of the department which is indispensably necessary to ensure a correct and efficient discharge of their functions. But whether the transfer of the police to the collectors has been attended with all the benefits expected from it, is extremely doubtful. In most of the districts under this Presidency, the business of settling and collecting the revenue, under the detailed system of management which generally prevails, is amply sufficient to occupy the whole time and attention of the collectors: and in consequence, with most of them, the business of police is, as in the nature of things it must be, a matter of secondary consideration.* It is not intended to impute the slightest degree of blame to these officers; on the contrary, in general they bring to the discharge of their police functions all the zeal and activity which, under the circumstances in which they are placed, can reasonably be expected from them.

80. The discussion of this subject, however, is attended with considerable difficulties. The judges of circuit in their Reports seldom touch upon it at all, or confine themselves to a few insulated facts, from which it is impossible to form any conclusion on the general effect of the system. The court of Foujdarry Adawlut have long been satisfied that hardly any reliance is to be placed on the periodical returns made by the magistrates under the

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

provisions of Section xix. Regulation II. of 1811. These Returns are prepared from the loose and inaccurate, and perhaps, in some instances, fictitious reports of the police officers; and though new forms have been prepared, no reports or statements yet exist which enable them to ascertain, with any degree of correctness, whether crime is on the increase or decrease generally, or in particular districts. The Statements, showing the number of persons brought before the magistrates and the superior tribunals on criminal charges within a given period, are all that can be rationally depended on; but these statements convey little of the information requisite to a correct judgment upon the efficiency, or otherwise, of the police, inasmuch as they do not show, and there are as yet no means of ascertaining, how many crimes were actually committed of which none of the perpetrators are known or have been apprehended, or what proportion the number of persons apprehended bears to the number of the known or supposed perpetrators.

81. From the materials in their possession, therefore, it is impossible for the judges to institute any satisfactory comparison between the former and the present system of police, or to furnish certain data upon which an opinion may be formed in respect to the positive efficiency, or otherwise, of the present system. It may be useful, however, to compare the effects of the two systems, so far as they are manifested by the number and nature of the criminal charges actually brought to trial before the courts of circuit; and it was for this purpose that the Statements referred to under the Seventh Head of inquiry were originally prepared.

See Statements (T.) & (U.)

82. On reference to these Statements, it will be seen that in the years 1813, 1814 and 1815, there were 280 cases of murder brought before the several courts of circuit; and 285 cases in the years 1825, 1826 and 1827. For the first period, the total number of persons convicted of this crime, which includes homicide of all descriptions, was 157, and for the second 158. Under the head of robbery and murder there were 153 cases, and 180 persons convicted for the first, and only 81 cases and 58 persons convicted for the second period. During the first period, however, the calendars under this head were swelled, more particularly in the Southern Division, by the commitment of numerous persons for phanseegaree; since which this atrocious crime has hardly been heard of in the provinces subject to this Presidency, although there is some reason to fear that it is not altogether suppressed, because, in the year 1827, a respectable Mussulman, on his journey from Calcutta to Madras, was totally lost sight of about twenty miles on this side of Chicacole, under circumstances which left little doubt that he and his attendants fell victims to this crime. Under the head of robbery there were, in the first instance, 539 cases, and 1,074 persons convicted; and in the second 770 cases, and 1,092 persons convicted. But the scarcity that prevailed in 1824 and 1825 served to swell the calendars under this head in the first and second years of the last period, to an unusual degree. For the first period there were 507 cases and 759 persons convicted of housebreaking; and for the second 351 cases, and 294 persons convicted. For the first period there were 856 cases, and 937 persons convicted of theft; and for the second period 183 cases, and 128 persons convicted. The apparent decrease under the last two heads is referrible, in some degree, to the enlarged powers granted to the criminal judges by Regulations VI. of 1822 and I. of 1825, which, of course, have operated to diminish the number of cases exhibited on the calendars of the circuit courts under these heads.

83. It will be observed, that during the first period, as far as is shown by the calendars, there was little variation in the number of offences under each separate head; but during the second period the heinous offence of robbery, attended with murder, gradually declined from 39 cases in 1825, to 17 in 1827. Housebreaking, also, and theft above 300 rupees, or attended with aggravating circumstances, were reduced in nearly the same proportion, there being 159 cases of housebreaking in 1825, and only 71 in 1827; and 75 cases of theft in 1825, and only 39 in 1827.

See Statement (X.)

84. It has been already stated, that little reliance can be placed upon the periodical returns of crimes ascertained to have been committed; but accompanying is an Abstract of those Returns from 1825 to 1827 inclusive, arranged under the five heads above mentioned, and showing the number of cases reported, and the number of persons apprehended. It is to be regretted, that the Returns from 1813 to 1815 inclusive are imperfect; and a similar Abstract for those three years could not be prepared.

85. From this Abstract it appears, that in 1825 there were 221 cases of murder reported, and that 451 persons were apprehended for this crime. In 1826 the number of cases was reduced to 184, and the number of persons apprehended to 436. In 1827 a further reduction took place, the cases reported being 177, and the persons apprehended being 384.

86. In 1825 the number of robberies, attended with murder, was reported to be 36, and 122 persons were apprehended. In 1826 the number reported was 25, and the persons apprehended were 71. In 1827 the number reported amounted to 56, while the persons apprehended were 89.

87. The number of robberies reported in 1825 was 812, and the persons apprehended were 1,410. In 1826 the number reported was reduced to 613, and 871 persons were apprehended. In 1827 the cases reported were 644, and the persons apprehended were 863.

88. In 1825 there were 1,662 cases of housebreaking reported, and 1,260 persons were apprehended. In 1826 the number reported was 1,628, and the persons apprehended were

were 794. In 1827 the number reported amounted to 1,767, while the number of persons apprehended was reduced to 756.

89. In 1825 the number of thefts above 50 rupees, or attended with aggravating circumstances, was 1,901, and the persons apprehended were 2,963. In 1826 the number reported was 1,572, and the persons apprehended were 1,514. In 1827 the number reported was 1,568, and the persons apprehended were 1,457.

90. In the three years above mentioned, the number of cases reported under the heads of murder, robbery and murder, robbery and housebreaking, alone amounted to 7,835, on account of which 7,507 persons only were apprehended; while in 1813, 1814 and 1815, the total number of robberies and other heinous crimes, amounted only to 7,506, while the total number of persons apprehended amounted to 9,822.

91. Accompanying is another Statement, showing the total number of offences of all descriptions reported to have been committed in 1825, 1826 and 1827, the number of persons apprehended, and the number acquitted or convicted by the police officers, the magistrates, the criminal judges, the courts of circuit, and the Foujdarry Adawlut.

92. It will be seen that the number of offences reported in 1825, was 16,928; in 1826 it was reduced to 13,881; and in 1827 it was further reduced to 13,301. The number of persons apprehended also was reduced in the same manner, viz. from 29,869 in 1825, to 23,104 in 1826, and to 21,472 in 1827.

93. The total number of persons apprehended in these three years amounted to 74,445. Of that number, 16,206 were released on examination, or acquitted on trial by the police officers, and 9,890 by the magistrates, making a total of 26,096, or more than one third of the number apprehended. By the police officers 20,506 were convicted, and by the magistrates 5,815, making a total of 26,321; while the number sent to the criminal judges by the police officers and the magistrates, amounted to 21,820. *See* Statement (Y.)

94. During the same three years, there were 12,637 persons released on examination, or acquitted on trial by the criminal judges; 4,814 were convicted, and 4,825 were committed for trial before the courts of circuit. It appears, therefore, that considerably more than one half of the persons brought before the criminal judges within this period were released. The commitments during this period fall considerably short of the commitments made in 1813, 1814 and 1815, which amounted to 7,272. It must be observed, however, that the decrease is attributable, in some measure at least, to the enlarged powers of punishment granted to the criminal judges by Regulations VI. of 1822, and I. of 1825.

95. During the same three years, the acquittals before the courts of circuit amounted to 3,059, and the convictions to 1,201; while the acquittals by the court of Foujdarry Adawlut were 975, and the convictions 922.

96. That more petty offences are reported, and that more petty offenders are subject to punishment under the present system than under the former, is quite plain; but it does not appear that either an increase of crime, or a greater efficiency of the present system, considered strictly as a system of police, can safely be inferred from this fact. Complaints of petty offences are more numerous, because, under the present system of magistracy, the punishment of the offenders is attended with infinitely less difficulty and inconvenience to the parties injured. It is probable also that this cause operates to increase the complaints of housebreaking and theft, which to a certain extent are now made finally cognizable by the criminal judges instead of the courts of circuit. So that the result above mentioned seems attributable rather to the increased facility of punishment, than to an increase of crime, or to superior vigilance in the police.

97. But if it should be considered that the reports of offences ascertained to have been committed are entitled to more confidence than the judges are inclined to give them, it is clear that the Statements afford evidence not only of an increase of crime, but of relaxed state of vigilance and efficiency in the police. Almost all robberies, with or without murder, are committed in gangs; and it seldom happens that less than two or three are concerned in a case of housebreaking. The total number of cases reported under these three heads in 1825, 1826 and 1827, amounted to 7,253, while the total number of persons apprehended was only 6,236. Under the head of housebreaking alone, there were 5,067 cases reported, and the number of persons apprehended was only 2,810. Supposing all the convictions which took place before the criminal judges in the three years above mentioned were for housebreaking and theft, and adding to them the number of persons convicted of those two offences in the same years by the courts of circuit and the Foujdarry Adawlut, the total is only 5,236;* while, according to the reports, there were no less than 10,108 offences of this description committed during the same period. *See* Statement (X.)

* Viz. Convicted by the Criminal Judges, 4,814
Courts of Circuit and Foujdarry Adawlut } 422
5,236

98. It has been asserted, that under the former system numerous crimes were committed which were never disclosed, and the judges have no doubt that this is true to a certain extent; but it is obviously to little purpose that crimes are now less concealed than formerly, if few of the perpetrators are apprehended, and still fewer brought to conviction and punishment. And that this is the case at present in respect to the higher classes of crimes, is clearly established by the foregoing Statements, so far as reliance can be placed upon them.

99. It very seldom happens that the same crime appears for a second time on the calendars, although comparatively few of the perpetrators are brought up for trial in the first instance. In the trials referred to the Foujdarry Adawlut, indeed, it is no uncommon thing

to find accomplices implicated by name, who have not been apprehended; and though their persons are well known, they are rarely apprehended and brought upon the subsequent calendars. It is probable that for a time at least they take refuge in other districts, but they could hardly escape detection under a vigilant and combined system of police; and it is but too evident that after the first attempt to secure offenders, the exertions of the police officers are relaxed or altogether discontinued; and that if a criminal is fortunate enough to escape detection in the first instance, he is in little danger afterwards. It seems difficult to account otherwise for the extreme paucity of cases in which offenders are committed for crimes, of which some of the perpetrators have been tried before.

100. Upon the whole, the conclusion must be, that the police possesses but a small portion of the efficiency which its transfer to the collectors was intended to secure. It has already been intimated that, with most of the collectors, in consequence of their other avocations, the business of the police is a matter of secondary consideration; and the same remark is applicable to the tahseeldars, and perhaps, in some districts, to the village officers also. But were it otherwise, the judges are by no means satisfied that the system would generally be much more efficient than it is now. It seems to them that it requires a further superintending power to combine, regulate and control its exertions; and unless some expedient can be devised for stimulating the subordinate native officers of the establishment to energy, and for subjecting acts of misconduct, on their part, to certain and adequate punishment, without hazarding the efficiency of the revenue department, little improvement in the general character of the police can be expected.

Tenth Head.

10th. Whether the provisions made by Regulation XII. 1816, for authorizing the collectors to refer claims regarding lands or crops, the validity of which may depend on the determination of a disputed boundary, as also certain disputes respecting the occupation cultivation and irrigation of land to be tried and determined by punchayets, have been found useful and unobjectionable or otherwise. It is desirable that the information on this head should be accompanied by a statement showing the number of claims of this description determined or adjusted in 1825, and the number depending before punchayets in each district on the 1st of January 1826.

See Statement (Z.)

101. The accompanying Statement exhibits the number of causes brought before the collectors under Section iv. Regulation XII. of 1816, and Section xviii. Regulation V. of 1822, and referred by them to punchayets from 1816 to 1826 inclusive. It also exhibits the number depending at the beginning of each year from 1825 to 1828 inclusive, with the number disposed of in 1825, 1826 and 1827.

102. The Statement is prepared from the returns transmitted by the collectors, to whom a special reference was found necessary, in consequence of the apparent omission of the village and district moonsiffs to include, or at least to distinguish in their reports, the decisions of punchayets in suits of this description.

103. By Section xviii. Regulation V. of 1822, the provisions of Section iv. Regulation XII. of 1816, which were limited to disputes between proprietors or renters and their ryots, were extended to disputes between ryot and ryot; and it seemed desirable to ascertain to what extent suits of the latter description had been referred to punchayets. For this purpose a second reference was made to the collectors; and the accompanying Statement is prepared from their amended returns, which, however, differ very materially in the totals from those first transmitted. It is probable that the first returns included all claims preferred to the collectors, whether referred to punchayets or not.

104. It appears that in the Cuddapah, Guntoor, Tanjore and Canara districts, no references of suits of this description have ever been made to punchayets. It is stated, that in the Bellary district references have been made, but no registry of them has been kept; and it will be seen that it is in the Coimbatore and Malabar districts only that this mode of decision has been much resorted to. In Coimbatore, however, as well as in some other districts, no disputes between ryot and ryot have been thus disposed of.

105. It is obviously of the highest importance that disputes of this description should be speedily adjusted; but on an examination of the Statement, it will be seen that of the 154 causes between proprietors or renters and their ryots depending on the 1st January 1825, no less than 57 were still pending at the beginning of 1828; the total number of decisions under that head in the three years being only 97.

Ordered, That Extracts from these proceedings be forwarded for the consideration of the Right honourable the Governor in Council.

(A true Extract.)

(signed) *A. D. Campbell*, Register.

Statements referred to in Letter from the *Bengal* Government, 15 June 1830.

(A.)

REVISED GENERAL STATEMENT, showing the NUMBER of VILLAGE MOONSIFFS.

ZILLAHS.	NUMBER of VILLAGE MOONSIFFS.
CENTRE DIVISION:	
Bellaree	2,374
Chingleput	4,976
Chittoor	2,700
Cuddapah	1,864
TOTAL	11,914
NORTHERN DIVISION:	
Masulipatam	1,934
Nellore	2,279
Chicacole	998
TOTAL	5,211
SOUTHERN DIVISION:	
Combaconum	3,744
Madura	5,969
Salem	3,891
TOTAL	13,604
WESTERN DIVISION:	
Canara	1,149
Malabar	449
Seringapatam	1
TOTAL	1,599
GRAND TOTAL	32,328

E. E. p^r

Sudr Adalut Register's Office,
23 April 1829.

(signed) *A. D. Campbell,*
Register

(B.) - - - - - - - - -

	1817.		1818.		1819.		1820.		1821.	
	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.
Village Moonsiffs. Centre Division -	14	1,653	247	1,115	2	505	- -	456	- -	636
Northern Division - -		737	228	800	27	484	46	654	142	393
Southern Division - -		5,438	373	3,602	197	2,172	253	1,644	275	1,192
Western Division - -		2,465	- -	2,549	- -	1,232	- -	1,390	- -	1,593
TOTAL - -	14	10,293	848	8,066	226	4,393	299	4,144	417	3,814

Sudr Adalut Register's Office,
23 April 1829.

(C.) - - - - - - - -

STATEMENT, showing the NUMBER of SUITS disposed of by the - - -

ZILLAHS.	In 1825.	In 1826.	In 1827.	TOTAL.
Centre Division. Bellaree - - - - -	14	1	- - -	15
Chingleput - - - -	137	148	43	328
Chittoor - - - - -	758	851	441	2,050
Cuddapah - - - -	254	223	179	656
Ditto - Auxiliary Court at Cumbum.	—	—	—	—
TOTAL - -	1,163	1,223	663	3,049
Northern Division. Chicacole - - - - -	88	108	37	233
Masulipatam, or Rajahmundry -	67	88	90	245
Ditto - Auxiliary Court.	—	—	—	—
Nellore - - - - -	633	318	229	1,180
TOTAL - -	788	514	356	1,658

Sudr Adalut Register's Office,
23 April 1829.

(B.)

1822.		1823.		1824.		1825.		1826.		1827.	
Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.
18	624	33	1,163	42	877	161	1,163	494	1,223	224	663
275	299	261	293	267	449	248	788	230	514	283	356
265	822	168	826	298	1,033	380	1,440	409	1,566	304	1,672
- -	1,280	- -	748	- -	916	2,348	795	2,090	1,873	2,490	2,404
558	3,025	462	3,030	607	3,275	3,137	4,186	3,223	5,176	3,301	5,095

E. E. p^r

(signed) *A. D. Campbell,*
Register.

(C.)

Village Moonsiffs, in the several Zillahs, from 1825 to 1827, inclusive.

	ZILLAHS.	In 1825.	In 1826.	In 1827.	TOTAL.
Southern Division.	Combaconum	343	245	236	824
	Madura	621	868	439	1,928
	Ditto - Auxiliary Court at Tinnevelly	- - -	- - -	383	383
	Salem	476	453	216	1,145
	Ditto - Auxiliary Court at Coimbatore	- - -	- - -	136	136
	Collegol	- - -	- - -	262	262
	Total	1,440	1,566	1,672	4,678
Western Division.	Canara	795	1,031	381	2,207
	Ditto - Auxiliary Court at Ronore	- - -	- - -	416	416
	Malabar	- - -	611	857	1,468
	Ditto - Auxiliary Court at Tellicherry	- - -	- - -	419	419
	Seringapatam	- - -	231	331	562
	Total	795	1,873	2,404	5,072
	GRAND TOTAL	4,186	5,176	5,095	14,457

E. E. p^r

(signed) *A. D. Campbell,*
Register.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

(D.) - - - - - - -

STATEMENT, showing the NUMBER of SUITS disposed of by the

	Depending on the 1st January 1825.	DISPOSED OF IN 1825.				Depending on the 1st January 1826.
		Under 10 Rs.	From 10 to 200 Rs.	From 200 to 500 Rs.	TOTAL.	
CENTRE DIVISION:						
Bellary - - - - -	1,224	4,295	2,928	56	7,279	574
Chingleput - - - -	520	603	1,680	95	2,378	258
Chittoor - - - -	695	263	3,203	162	3,628	457
Cuddapah - - - -	2,205	3,282	3,550	30	6,862	1,919
Ditto - Auxiliary Court -	- -	- -	- -	- -	- -	- -
TOTAL - - -	4,644	8,443	11,361	343	20,147	3,208
NORTHERN DIVISION:						
Chicacole - - - -	1,128	1,183	2,042	94	3,319	762
Masulipatam, or Rajahmundry -	1,295	1,170	2,473	106	3,749	1,328
Ditto - Auxiliary Court -	- -	- -	- -	- -	- -	-
Nellore - - - - -	345	817	2,408	117	3,342	420
TOTAL - - -	2,768	3,170	6,923	317	10,410	2,510
SOUTHERN DIVISION:						
Combaconum - - - -	1,097	434	2,375	189	2,998	795
Madura - - - - -	407	702	2,747	146	3,595	318
Ditto - Auxiliary Court -	- -	- -	- -	- -	- -	- -
Salem - - - - -	2,587	2,374	3,559	92	6,025	1,335
Ditto - Auxiliary Court -	- -	- -	- -	- -	- -	- -
TOTAL - - -	4,091	3,510	8,681	427	12,618	2,448
WESTERN DIVISION:						
Canara - - - - -	4,142	254	4,359	227	4,840	5,058
Ditto - Auxiliary Court -	- -	- -	- -	- -	- -	- -
Malabar - - - - -	2,548	1,292	4,104	241	5,637	2,741
Ditto - Auxiliary Court -	- -	- -	- -	- -	- -	- -
TOTAL - - -	6,690	1,546	8,463	468	10,477	7,799
GRAND TOTAL - - -	18,193	16,669	35,428	1,555	53,652	15,965

Sudr Adalut Register's Office,
23 April 1829.

(D.)

DISTRICT MOONSIFFS, in the several Zillahs, from 1825 to 1827, inclusive.

DISPOSED OF IN 1826.				Depending on the 1st January 1827.	DISPOSED OF IN 1827.				GRAND TOTAL disposed of.
Under 10 Rs.	From 10 to 200 Rs.	From 200 to 500 Rs.	TOTAL.		Under 10 Rs.	From 10 to 200 Rs.	From 200 to 500 Rs.	TOTAL.	
3,668	2,631	61	6,360	562	3,057	2,183	46	5,286	18,925
450	1,518	73	2,041	356	461	1,708	67	2,236	6,655
81	2,946	129	3,156	412	99	2,636	109	2,844	9,628
3,127	2,963	51	6,141	1,040	3,184	3,047	42	6,273	19,276
- -	- -	- -	- -	- -	396	615	5	916	916
7,326	10,058	314	17,698	2,370	7,197	10,089	269	17,555	55,400
924	1,770	72	2,766	819	1,049	1,941	81	3,071	9,156
966	2,343	137	3,446	1,560	700	1,658	82	2,440	9,635
- -	- -	- -	- -	- -	183	809	47	1,039	1,039
1,007	2,541	131	3,679	501	1,202	2,574	136	3,912	10,933
2,897	6,654	340	9,891	2,880	3,134	6,982	346	10,462	30,763
444	2,340	163	2,947	478	584	2,091	168	2,843	8,788
586	2,772	147	3,505	250	333	2,234	99	2,666	9,766
- -	- -	- -	- -	- -	70	327	8	405	405
2,133	3,765	81	5,979	1,334	1,498	2,904	73	4,475	16,479
- -	- -	- -	- -	- -	482	692	31	1,205	1,205
3,163	8,877	391	12,431	2,062	2,967	8,248	379	11,594	36,643
169	4,288	234	4,691	5,359	85	2,228	165	2,478	12,009
- -	- -	- -	- -	- -	41	1,745	69	1,855	1,855
794	5,024	232	6,050	2,546	288	4,341	218	4,847	16,534
- -	- -	- -	- -	- -	38	1,074	60	1,172	1,172
963	9,312	466	10,741	7,905	452	9,388	512	10,352	31,570
14,349	34,901	1,511	50,761	15,217	13,750	34,707	1,506	49,963	154,376

E. E. p^r

(signed) *A. D. Campbell*,
Register.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

(D.)—*continued.*

STATEMENT, showing the PARTICULARS of SUITS from 200 to 500 Rupees, disposed of

	In 1825.			
	Decreed.	Dismissed.	Razeenamahs.	TOTAL.
CENTRE DIVISION:				
Bellary	29	26	1	56
Chingleput	65	15	15	95
Chittoor	95	23	44	162
Cuddapah	19	9	2	30
Ditto - Auxiliary Court at Cumbum	- -	- -	- -	- -
TOTAL	208	73	62	343
NORTHERN DIVISION:				
Chicacole	66	6	22	94
Masulipatam, or Rajahmundry	54	13	39	106
Ditto - Auxiliary Court	- -	- -	- -	- -
Nellore	58	14	45	117
TOTAL	178	33	106	317
SOUTHERN DIVISION:				
Combaconum	114	16	59	189
Madura	78	42	26	146
Ditto - Auxiliary Court	- -	- -	- -	- -
Salem	59	5	28	92
Ditto - Auxiliary Court	- -	- -	- -	- -
TOTAL	251	63	113	427
WESTERN DIVISION:				
Canara	191	18	18	227
Ditto - Auxiliary Court	- -	- -	- -	- -
Malabar	207	6	28	241
Ditto - Auxiliary Court	- -	- -	- -	- -
TOTAL	398	24	46	468
GRAND TOTAL	1,035	193	327	1,555

Sudr Adalut Register's Office,
23 April 1829.

(D.)—*continued.*

by the DISTRICT MOONSIFFS in the several ZILLAHS, in 1825, 1826 and 1827 respectively.

In 1826.				In 1827.			
Decreed.	Dismissed.	Razeenamahs.	TOTAL.	Decreed.	Dismissed.	Razeenamahs.	TOTAL.
40	19	2	61	31	15	- -	46
49	8	16	73	48	8	11	67
90	7	32	129	75	6	28	109
30	7	14	51	28	2	12	42
- -	- -	- -	- -	2	1	2	5
209	41	64	314	184	32	53	269
56	- -	16	72	64	- -	17	81
67	2	68	137	55	2	25	82
- -	- -	- -	- -	29	- -	18	47
56	4	71	131	77	3	56	136
179	6	155	340	225	5	116	346
111	7	45	163	108	8	52	168
79	32	36	147	68	3	28	99
-	- -	- -	- -	4	1	3	8
60	5	16	81	59	2	12	73
- -	- -	- -	- -	21	5	5	31
250	44	97	391	260	19	100	379
198	7	29	234	126	8	31	165
- -	- -	- -	- -	61	3	5	69
187	- -	45	232	186	1	31	218
- -	- -	- -	- -	51	- -	9	60
385	7	74	466	424	12	76	512
1,023	98	390	1,511	1,093	68	345	1,506

E. E. p^r

(signed) *A. D. Campbell,*
Register.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

(E.) - - - - - - - - -

DISTRICT MOONSIFFS, as per Returns of 1827. - - - - -

	Talooks.
BELLAREE:	
Coorgoodoo - - -	1
Cottoor - - - -	1
Caley an droog - -	1
Purghee - - - -	1
Tandemurree - - -	1
Gooty - - - -	1
Adhoni - - - -	1
TOTAL - - -	7
CHINGLEPUT:	
Caringooly - - -	1
Coujeveram and Chingleput	1
Tripausoor and Streepermandoor - - -	1
Cuddaloor - - -	1
Veloopooram - - -	1
Chedumborum - -	1
Gingee - - - -	1
TOTAL - - -	7
CHITTOOR:	
Vellore - - - -	1
Cholungur - - -	1
Calesty - - - -	1
Trivettoor - - -	1
Goodeyattam - - -	1
TOTAL - - -	5
CUDDAPAH:	
Cuddapah - - -	1
Vavelapandoo - - -	1
Cadri - - - -	1
Nosem - - - -	1
Cumbum - - -	1
Nundulput - - -	1
Tangatoor - - -	1
TOTAL - - -	7

	Talooks.
CHICACOLE:	
Royavaram - - -	1
Vizagapatam - - -	1
Vizianagrum - - -	1
Seetanagarum - - -	1
Nursenapettah - -	1
Etchapoor - - -	1
Poorshotapoor - -	1
TOTAL - - -	7
MASULIPATAM:	
Goodevah - - -	1
Wooyoor - - -	1
Juyjoor - - - -	1
Pencondah - - -	1
Amalupoor - - -	1
Peddapoor - - -	1
Seetanagarum - - -	1
Ellore - - - -	1
TOTAL - - -	8
NELLORE:	
Naidepettah - - -	1
Jaotmultulpore - -	1
Anamasamuodrumpettah -	1
Ongole - - - -	1
Guntoor - - - -	1
Chilakaloorpandroo - -	1
Suttempully - - -	1
Dauchepully - - -	1
TOTAL - - -	8
COMBACONUM:	
Combaconum - - -	1
Manyavarum - - -	1
Munaregoody - - -	1
Panponasum - - -	1
Puttoocottah - - -	1
Conaud - - - -	1
Areyatoor - - -	1
Terriore - - - -	1
TOTAL - - -	8

(E.)

DISTRICT MOONSIFFS, as per Returns of 1827.

	Talooks.		Talooks.
MADURA:		CANARA:	
Dindigul	1	Mungalore	1
Sholavundum	1	Bekul	1
Swagunga	1	Buntwall	1
Putmagoody	1	Barcoor	1
Pramadasem	1	Cundapoor	1
Nadoormundalem	1	Onore	1
Sreevycoontum	1	Ankolah	1
Nilliambalam	1	Sirsi	1
		Soopah	1
TOTAL	8	TOTAL	9
SALEM:		MALABAR:	
Yatapoor	1	Calicut	1
Namuel	1	Polghaut	1
Yadapondy	1	Beetutnaad	1
Kistnugeddy	1	Pynaad	1
Tripoottoor	1	Ernaad	1
Coimbatoor	1	Cochin	1
Chayoor	1	Tellicherry	1
Woodmulcottah	1	Curtinaad	1
Cawroor	1	Cawvay	1
Dalvoypettah	1	Wynaad	1
Colligol	1		
TOTAL	11	TOTAL	10

ABSTRACT.

	Talooks.	Talooks.
BELLAREE	7	
CHINGLEPUT	7	
CHITTOOR	5	
CUDDAPAH	7	
		26
CHICACOLE	7	
MASULIPATAM	8	
NELLORE	8	
		23
COMBACONUM	8	
MADURA	8	
SALEM	11	
		27
CANARA	9	
MALABAR	10	
		19
GRAND TOTAL Number of District Moonsiffs		95

E. E. p^r

Sudr Adalut Register's Office, 23 April 1829.

(signed) *A. D. Campbell*, Register.

(F.)—Moonsiffs.

	1817.		1818.		1819.		1820.		1821.	
	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.
Centre Division -	384	18,358	3,100	16,095	2,839	17,203	4,663	17,883	4,371	20,330
Northern Division -	767	8,490	2,734	8,425	2,409	10,387	4,084	8,832	3,569	8,288
Southern Division -	246	11,997	3,696	11,403	2,501	10,107	4,463	10,557	4,121	11,554
Western Division -	1,461	9,006	2,387	5,815	5,158	6,028	5,838	7,812	7,550	6,416
Total - - -	2,858	47,851	11,917	41,738	12,907	43,725	19,048	45,084	19,611	46,588

Sudr Adalut Register's Office,
23 April 1829.

(G.)

STATEMENT, showing the Number of Suits depending before the District

	1825.	1826.	1827.	TOTAL.
Centre Division:				
Bellary - - - - -	- - -	1	622	623
Chingleput - - - - -	- - -	1	424	425
Chittoor - - - - -	- - -	- - -	457	457
Cuddapah - - - - -	- - -	- - -	741	741
Ditto - Auxiliary Court - -	- - -	- - -	74	74
Total - - -	- - -	2	2,318	2,320
Northern Division:				
Chicacole - - - - -	- - -	5	924	929
Masulipatam, or Rajahmundry -	- - -	39	867	906
Ditto - Auxiliary Court - -	- - -	17	682	699
Nellore - - - - -	- - -	- - -	412	412
Total - - -	- - -	61	2,885	2,946

Sudr Adalut Register's Office,
22 April 1829.

(F.)—MOONSIFFS.

1822.		1823.		1824.		1825.		1826.		1827.	
Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.	Number of Causes depending before them on 1st January.	Number of Causes disposed of.
6,097	23,535	6,229	21,456	6,674	20,838	4,644	20,147	3,208	17,698	2,370	17,555
4,217	9,827	5,079	9,261	3,736	8,945	2,768	10,410	2,510	9,891	2,880	10,462
4,373	11,370	5,496	12,396	4,874	13,905	4,091	12,618	2,448	12,431	2,062	11,594
9,362	9,809	9,168	8,499	7,431	11,308	6,690	10,477	7,799	10,741	7,905	10,352
24,049	54,541	25,972	51,612	22,715	54,996	18,193	53,652	15,965	50,761	15,217	49,963

E. E. p^r

(signed) *A. D. Campbell*,

Register.

(G.)

MOONSIFFS on the 1st January 1828, and the Years in which they were instituted.

	1825.	1826.	1827.	TOTAL.
SOUTHERN DIVISION:				
Combaconum - - - - -	- - -	- - -	580	580
Madura - - - - - -	- - -	- - -	262	262
Ditto - Auxiliary Court - -	- - -	- - -	34	34
Salem - - - - - -	- - -	1	780	781
Ditto - Auxiliary Court - -	- - -	- - -	328	328
TOTAL - - -	- - -	1	1,984	1,985
WESTERN DIVISION:				
Canara - - - - - -	69	1,133	1,989	3,191
Ditto - Auxiliary Court - -	2	328	1,454	1,784
Malabar - - - - - -	- - -	4	1,382	1,386
Ditto - Auxiliary Court - -	- - -	- - -	838	838
TOTAL - - -	71	1,465	5,663	7,199
GRAND TOTAL - - -	71	1,529	12,850	14,450

E. E. p^r

(signed) *A. D. Campbell*,

Register.

(H.)

STATEMENT, showing the NUMBER of APPEAL CAUSES from the Decision of DISTRICT MOONSIFFS, disposed of by the several ZILLAH COURTS, from 1825 to 1827, inclusive.

	In 1825.			In 1826.			In 1827.			GRAND TOTAL.
	Below 200 Rupees.	Above 200 Rupees.	TOTAL.	Below 200 Rupees.	Above 200 Rupees.	TOTAL.	Below 200 Rupees.	Above 200 Rupees.	TOTAL.	
CENTRE DIVISION:										
Bellaree - - -	48	4	52	25	3	28	11	2	13	93
Chingleput - -	99	15	114	36	12	48	65	7	72	234
Chittoor - - -	182	40	222	159	19	178	87	22	109	509
Cuddapah - - -	37	4	41	54	- -	54	17	2	19	114
Ditto, Auxiliary Court	- -	- -	- -	- -	- -	- -	14	- -	14	14
TOTAL - -	366	63	429	274	34	308	194	33	227	964
NORTHERN DIVISION:										
Chicacole - - -	24	9	33	18	4	22	48	5	53	108
Masulipatam - -	43	10	53	122	15	137	32	12	44	234
Ditto, Auxiliary Court	- -	- -	- -	- -	- -	- -	2	- -	2	2
Nellore - - -	67	21	88	33	11	44	61	12	73	205
TOTAL - -	134	40	174	173	30	203	143	29	172	549
SOUTHERN DIVISION:										
Combaconum - -	154	27	181	138	48	186	90	10	100	467
Madura - - -	54	22	76	33	10	43	57	15	72	191
Ditto, Auxiliary Court	- -	- -	- -	- -	- -	- -	12	3	15	15
Salem - - -	80	7	87	172	14	186	109	8	117	390
Ditto, Auxiliary Court	- -	- -	- -	- -	- -	- -	36	3	39	39
TOTAL - -	288	56	344	343	72	415	304	39	343	1,102
WESTERN DIVISION:										
Canara - - -	205	21	226	235	46	281	103	18	121	628
Ditto, Auxiliary Court	- -	- -	- -	- -	- -	- -	18	1	19	19
Malabar - - -	182	54	236	145	28	173	193	52	245	654
Ditto, Auxiliary Court	- -	- -	- -	- -	- -	- -	82	11	93	93
TOTAL - -	387	75	462	380	74	454	396	82	478	1,394
GRAND TOTAL - -	1,175	234	1,409	1,170	210	1,380	1,037	183	1,220	4,009

E. E. p^r

Sudr Adalut Register's Office,
23 April 1829.

(signed) *A. D. Campbell,*
Register.

(I.)

STATEMENT, showing the NUMBER of APPEALS exceeding 200 Rupees, from the Decisions of DISTRICT MOONSIFFS, depending in the ZILLAH COURTS, on the 1st January 1825 and 1828, respectively.

	1825.	1828.
CENTRE DIVISION:		
Bellaree	1	2
Chingleput	10	8
Chittoor	38	8
Cuddapah	6	1
Ditto, Auxiliary Court	—	—
TOTAL	55	19
NORTHERN DIVISION:		
Chicácole	11	14
Masulipatam, or Rajahmundry	7	9
Ditto, Auxiliary Court	- - -	20
Nellore	10	3
TOTAL	28	46
SOUTHERN DIVISION:		
Combaconum	11	12
Madura	11	8
Ditto, Auxiliary Court	- - -	1
Salem	9	7
Ditto, Auxiliary Court	- - -	8
TOTAL	31	36
WESTERN DIVISION:		
Canara	22	17
Ditto, Auxiliary Court	- - -	2
Malabar	6	20
Ditto, Auxiliary Court	- - -	2
TOTAL	28	41
GRAND TOTAL	142	142

E. E. p^r

(signed) *A. D. Campbell,*
Register.

Sudr Adalut Register's Office,
23 April 1829.

(J.) - - - - - - - - - -

STATEMENT, showing the PARTICULARS of the NUMBER of APPEAL CAUSES, from the Decision of

	In 1825.				
	Reversed.	Confirmed.	Dismissed for Default.	Razeenamah.	TOTAL.
CENTRE DIVISION:					
Bellary	10	36	- -	6	52
Chingleput	64	43	3	4	114
Chittoor	64	140	9	9	222
Cuddapah	12	16	4	9	41
Ditto, Auxiliary Court	- -	- -	- -	- -	- -
TOTAL	150	235	16	28	429
NORTHERN DIVISION:					
Chicacole	17	15	1	- -	33
Masulipatam, or Rajahmundry	20	24	2	7	53
Ditto, Auxiliary Court	- -	- -	- -	- -	- -
Nellore	33	37	8	10	88
TOTAL	70	76	11	17	174
SOUTHERN DIVISION:					
Combaconum	79	92	- -	10	181
Madura	28	44	1	3	76
Ditto, Auxiliary Court	- -	- -	- -	- -	- -
Salem	33	41	7	6	87
Ditto, Auxiliary Court	- -	- -	- -	- -	- -
TOTAL	140	177	8	19	344
WESTERN DIVISION:					
Canara	84	131	7	4	226
Ditto, Auxiliary Court	- -	- -	- -	- -	- -
Malabar	111	120	3	2	236
Ditto, Auxiliary Court	- -	- -	- -	- -	- -
TOTAL	195	251	10	6	462
GRAND TOTAL	555	739	45	70	1,409

Sudr Adalut Register's Office,
23 April 1829.

\- - - - - - - - - (J.)

DISTRICT MOONSIFFS, disposed of by the several ZILLAH COURTS, from 1825 to 1827 inclusive.

In 1826.					In 1827.					GRAND TOTAL.
Reversed.	Confirmed.	Dismissed for Default.	Razeenamah.	TOTAL.	Reversed.	Confirmed.	Dismissed for Default.	Razeenamah.	TOTAL.	
9	18	1	1	28	2	10	1	- -	13	93
19	25	2	2	48	28	19	22	3	72	234
62	109	4	3	178	32	70	2	5	109	509
19	22	6	6	54	8	7	2	2	19	114
- -	- -	- -	- -	- -	6	7	- -	1	14	14
109	174	13	12	308	76	113	27	11	227	964
12	8	- -	2	22	19	23	3	8	53	108
27	63	42	5	137	16	22	4	2	44	234
- -	- -	- -	- -	- -	- -	- -	- -	2	2	2
16	27	- -	1	44	29	39	1	4	73	205
55	98	42	8	203	64	84	8	16	172	549
81	100	2	3	186	34	61	1	4	100	467
14	26	- -	3	43	22	35	11	4	72	191
- -	- -	- -	- -	- -	5	10	- -	- -	15	15
80	52	47	7	186	30	17	66	4	117	390
- -	- -	- -	- -	- -	24	12	1	2	39	39
175	178	49	13	415	115	135	79	14	343	1,102
114	157	2	8	281	36	74	5	6	121	628
- -	- -	- -	- -	- -	7	12	- -	- -	19	19
65	89	12	7	173	77	130	28	10	245	654
- -	- -	- -	- -	- -	42	48	- -	3	93	93
179	246	14	15	454	162	264	33	19	478	1,394
518	696	118	48	1,380	417	596	147	60	1,220	4,009

E. E. p^r

(signed) *A. D. Campbell*, Register

(K.) - - - - - - - - -

	1817.		1818.		1819.		1820.		1821.	
	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.
VILLAGE PUNCHAYETS:										
Centre Division -	- -	51	3	25	1	5	1	9	1	8
Northern Division	- -	15	4	7	2	6	- -	7	4	6
Southern Division	- -	151	- -	96	- -	38	- -	31	2	34
Western Division -	- -	33	- -	70	- -	50	- -	53	- -	43
TOTAL - -	- -	250	7	198	3	99	1	100	7	91
DISTRICT PUNCHAYETS:										
Centre Division -	1	17	2	10	6	10	9	7	9	19
Northern Division	- -	26	14	17	7	9	9	13	8	13
Southern Division	- -	9	11	33	6	5	6	7	4	4
Western Division -	- -	60	- -	15	14	9	11	4	10	3
TOTAL - -	1	112	27	75	33	33	35	31	31	39

Sudr Adalut Register's Office, 23 April 1829.

(L.)

STATEMENT, showing the NUMBER of SUITS depending on 1st January 1827, before the DISTRICT PUNCHAYETS and VILLAGE PUNCHAYETS; as also, the Years in which those Suits were instituted.

	SUITS INSTITUTED IN									TOTAL pending on 1st Jan. 1827.
	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	
DISTRICT PUNCHAYETS:										
Centre Division -	- -	1	- -	- -	- -	1	- -	1	1	4
Northern Division	- -	- -	- -	- -	- -	- -	2	1	4	7
Southern Division	- -	- -	- -	- -	- -	- -	- -	- -	5	5
Western Division -	- -	- -	- -	- -	- -	- -	- -	1	5	6
TOTAL - -	- -	1	- -	- -	- -	1	2	3	15	22
VILLAGE PUNCHAYETS:										
Centre Division -	—	—	—	—	—	—	—	—	—	—
Northern Division	- -	- -	- -	- -	- -	3	2	- -	1	6
Southern Division	- -	- -	- -	- -	- -	- -	1	- -	- -	1
Western Division -	2	2	1	- -	- -	2	- -	2	1	10
TOTAL - -	2	2	1	- -	- -	5	3	2	2	17

Sudr Adalut Register's Office, 23 April 1829.

E. E. p^r

(signed) *A. D. Campbell*, Register.

(K.)

1822.		1823.		1824.		1825.		1826.		1827.	
Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.	Number of Causes depending on 1st January.	Number disposed of.
- -	- -	- -	9	- -	18	- -	11	- -	2	- -	4
5	8	10	9	4	7	12	10	10	11	6	7
1	10	8	4	4	8	6	4	2	2	1	6
- -	29	- -	21	- -	5	3	- -	10	7	10	7
6	47	18	43	8	38	21	25	22	22	17	24
10	18	9	6	8	2	8	7	5	4	4	4
14	9	14	13	9	12	11	14	4	6	7	16
8	4	8	10	13	12	5	5	5	12	5	4
9	14	- -	13	- -	13	2	4	2	4	6	9
41	45	31	42	30	39	26	30	16	26	22	33

E. E. p^r (signed) *A. D. Campbell*, Register.

(M.)

NUMBER of SUDR AMEENS, as they stood on the 1st January 1827.

	NUMBER.
Bellaree - - - - - - - - - -	2
Chingleput - - - - - - - - - -	2
Chittoor - - - - - - - - - -	3
Cuddapah - - - - - - - - - -	2
TOTAL - -	9
Chicacole - - - - - - - - - -	2
Masulipatam - - - - - - - - - -	3
Nellore - - - - - - - - - -	2
TOTAL - -	7
Combaconum - - - - - - - - - -	3
Madura - - - - - - - - - -	2
Salem - - - - - - - - - -	2
TOTAL - -	7
Canara - - - - - - - - - -	2
Malabar - - - - - - - - - -	3
TOTAL - -	5
GRAND TOTAL - -	28

Sudr Adalut Register's Office, 23 April 1829.

E. E. p^r (signed) *A. D. Campbell*, Register.

(N.)—Sudder Ameens.

	1817.				1818.			
	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.
Centre Division	1,473	30	2,096	131	389	28	1,690	176
Northern Division	1,463	27	1,418	63	832	6	976	41
Southern Division	172	71	922	204	257	36	837	76
Western Division	830	199	784	421	257	196	356	185
Total	3,938	327	5,220	819	1,735	266	3,859	478

	1822.				1823.				1824.			
	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.
Centre Division	540	3	2,009	44	586	8	1,854	26	687	35	1,476	108
Northern Division	365	97	730	178	172	44	661	139	137	31	555	62
Southern Division	261	3	792	6	226	- -	704	1	391	1	775	159
Western Division	707	13	1,369	166	344	24	1,436	286	387	71	1,105	341
Total	1,873	116	4,900	394	1,328	76	4,655	452	1,602	138	3,911	670

Sudder Adalut Register's Office,
23 April 1829.

(N.)—Sudder Ameens.

1819.				1820.				1821.			
Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.
426	8	2,391	97	438	19	2,128	114	492	19	1,951	39
615	35	899	103	499	21	921	95	216	16	593	81
1,414	37	855	25	327	2	1,071	2	444	- -	1,087	13
326	111	908	2	360	- -	1,078	- -	555	5	1,189	75
2,781	191	5,035	227	1,624	42	5,198	211	1,708	40	4,820	208

1825.				1826.				1827.			
Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.	Number of Original Causes depending on 1st January.	Number of Appeals depending on 1st January.	Number of Original Causes disposed of.	Number of Appeals disposed of.
569	68	2,289	277	605	49	1,938	179	549	19	1,569	127
370	11	1,334	59	437	7	1,547	33	526	8	1,675	62
354	55	1,149	207	302	53	971	274	405	28	999	206
746	155	1,427	423	1,138	158	1,401	445	875	200	1,211	469
2,039	289	6,199	966	2,482	267	5,857	931	2,355	255	5,454	865

E. E. p^r

(signed) *A. D. Campbell*, Register.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

(O.) - - - - - - - -

STATEMENT, showing the YEARS in which the ORIGINAL SUITS and APPEALS

	1824.		1825.	
	ORIGINAL SUITS.	APPEALS.	ORIGINAL SUITS.	APPEALS.
Bellary	-	-	-	-
Chingleput	-	-	-	-
Chittoor	-	-	-	-
Cuddapah	-	-	-	-
Ditto - Auxiliary Court	-	-	-	-
Chicacole	-	-	1	-
Masulipatam	-	-	1	-
Ditto - Auxiliary Court	—	—	—	—
Nellore	-	-	-	-
Combaconum	1	-	-	-
Madura	-	-	-	-
Ditto - Auxiliary Court	-	-	-	-
Salem	-	-	-	-
Ditto - Auxiliary Court	-	-	-	-
Canara	2	-	25	2
Ditto - Auxiliary Court	-	-	7	-
Malabar	-	-	-	-
Ditto - Auxiliary Court	-	-	-	-
TOTAL	3	-	34	2

Sudr Adalut Register's Office,
23 April 1829.

- - - - - - - - (O.)

depending before the SUDDER AMEENS on the 1st January 1828, were filed.

1826.		1827.		TOTAL.	
ORIGINAL SUITS.	APPEALS.	ORIGINAL SUITS.	APPEALS.	ORIGINAL SUITS.	APPEALS.
- - -	- - -	156	- - -	156	—
2	14	136	30	138	44
- - -	- - -	121	8	121	8
5	- - -	117	3	122	3
- - -	- - -	3	- - -	3	—
1	1	219	- - -	221	1
4	- - -	280	- - -	285	—
—	—	—	—	—	—
- - -	- - -	40	6	40	6
1	- - -	120	35	122	35
- - -	- - -	26	4	26	4
- - -	- - -	13	3	13	3
2	1	142	23	144	24
- - -	- - -	26	5	26	5
61	9	100	6	188	17
3	- - -	170	29	180	29
2	- - -	351	117	353	117
- - -	- - -	32	3	32	3
81	25	2,052	272	2,170	299

E. E. p[r]

(signed) *A. D. Campbell*, Register.

(P.) - - - - - - - - - -

STATEMENT, showing the NUMBER of REGULAR and SPECIAL APPEALS from the Decisions of the inclusive; and also the Manner

	Number of Appeals preferred to the Zillah Courts in 1825.	REGULAR and SPECIAL APPEALS disposed of in 1825. BY THE JUDGE. Reversed.	Confirmed.	Dismissed.	Razeenamah.	Total.	BY THE REGISTER. Reversed.	Confirmed.	Dismissed.	Razeenamah.	Total.	TOTAL.	Number of Appeals preferred to the Zillah Courts in 1826.	REGULAR and SPECIAL BY THE JUDGE. Reversed.	Confirmed.	Dismissed.	Razeenamah.	Total.
CENTRE DIVISION:																		
Bellaree - - -	21	11	8	–	–	19	–	–	–	–	–	19	16	3	15	–	–	18
Chingleput - -	57	6	4	5	5	20	5	5	2	–	12	32	105	9	6	1	3	19
Chittoor - - -	37	3	12	7	1	23	1	16	1	–	18	41	55	12	16	1	1	30
Cuddapah - - -	79	14	14	1	1	30	6	14	1	7	28	58	78	6	10	1	3	20
Ditto, Auxiliary Court	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
TOTAL - -	194	34	38	13	7	92	12	35	4	7	58	150	254	30	47	3	7	87
NORTHERN DIVISION:																		
Chicacole - - -	41	7	5	–	3	15	13	2	–	2	17	32	52	14	17	1	5	37
Masulipatam, or Rajahmundry - -	33	3	3	–	–	6	–	1	–	–	1	7	65	17	13	–	–	30
Ditto, Auxiliary Court	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Nellore - - -	20	5	6	1	2	14	7	4	–	1	12	26	20	6	4	–	–	10
TOTAL - -	94	15	14	1	5	35	20	7	–	3	30	65	137	37	34	1	5	77
SOUTHERN DIVISION:																		
Combaconum - -	88	1	3	–	–	4	10	54	–	4	68	72	91	9	10	–	–	19
Madura - - -	12	5	7	–	2	14	–	–	–	–	–	14	7	3	5	1	–	9
Ditto, Auxiliary Court	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Salem - - -	58	3	14	–	1	18	6	6	1	–	13	31	59	23	20	1	3	47
Ditto, Auxiliary Court	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Collegol - - -	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
TOTAL - -	158	9	24	–	3	36	16	60	1	4	81	117	157	35	35	2	3	75
WESTERN DIVISION:																		
Canara - - -	114	14	18	8	–	40	10	19	–	1	30	70	99	2	–	6	–	8
Ditto, Auxiliary Court	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Malabar - - -	97	7	10	–	1	18	42	53	–	–	95	113	81	3	4	–	1	8
Ditto, Auxiliary Court	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Seringapatam - -	2	1	–	–	–	1	–	–	–	–	–	1	1	–	–	–	2	2
TOTAL - -	213	22	28	8	1	59	52	72	–	1	125	184	181	5	4	6	3	18
GRAND TOTAL - -	659	80	104	22	16	222	100	174	5	15	294	516	729	107	120	12	18	257

Sudr Adalut Register's Office,
23 April 1829.

(P.)

SUDDER AMEENS, preferred to and disposed of by the several ZILLAH COURTS for 1825, 1826, and 1827 in which they were disposed of.

APPEALS disposed of in 1826.						Number of Appeals preferred to the Zillah Courts in 1827.	REGULAR and SPECIAL APPEALS disposed of in 1827.										REMARKS.
BY THE REGISTER.					TOTAL.		BY THE JUDGE.					BY THE REGISTER.					TOTAL.	
Reversed.	Confirmed.	Dismissed.	Razeenamah.	TOTAL.			Reversed.	Confirmed.	Dismissed.	Razeenamah.	TOTAL.	Reversed.	Confirmed.	Dismissed.	Razeenamah.	TOTAL.		
–	–	–	–	–	18	9	2	6	–	–	8	–	–	–	–	–	8	There are no materials from which the Regular and Special Appeals can be distinguished.
37	18	6	3	64	83	79	10	10	–	2	22	12	20	3	2	37	59	
3	39	–	–	42	72	35	8	26	2	1	37	1	15	–	–	16	53	
36	51	3	6	96	116	43	12	24	2	3	41	6	7	–	1	14	55	
–	–	–	–	–	–	2	1	–	–	–	1	–	–	–	–	–	1	
76	108	9	9	202	289	168	33	66	4	6	109	19	42	3	3	67	176	
10	9	–	1	20	57	43	5	14	2	5	26	–	–	–	–	–	26	
4	16	17	1	38	68	40	10	12	2	2	26	–	1	1	–	2	28	
–	–	–	–	–	–	2	–	–	–	–	–	–	11	–	–	–	–	
2	4	–	2	8	18	22	–	3	–	1	4	4	–	–	–	15	19	
16	29	17	4	66	143	107	15	29	4	8	56	4	12	1	–	17	73	
14	63	1	3	81	100	42	10	11	2	1	24	10	27	2	1	40	64	
–	–	–	–	–	9	18	1	–	4	–	5	–	–	–	–	–	5	
–	–	–	–	–	–	10	–	2	1	–	3	–	–	–	–	–	3	
2	3	6	–	11	58	68	20	19	–	3	42	4	8	28	2	42	84	
–	–	–	–	–	–	11	1	–	–	1	2	–	–	–	–	–	2	
–	–	–	–	–	–	–	1	–	–	–	1	–	–	–	–	–	1	
16	66	7	3	92	167	149	33	32	7	5	77	14	35	30	3	82	159	
8	20	1	3	32	40	97	–	–	7	–	7	3	4	–	–	7	14	
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	
5	2	–	–	7	15	153	2	3	1	1	7	9	30	100	5	144	151	
–	–	–	–	–	–	21	3	–	–	–	3	–	–	–	–	–	3	
–	–	–	–	–	2	2	–	1	–	–	1	–	–	–	–	–	1	
13	22	1	3	39	57	273	5	4	8	1	18	12	34	100	5	151	169	
121	225	34	19	399	656	697	86	131	23	20	260	49	123	134	11	317	577	

E. E. p^r

(signed) *A. D. Campbell*, Register.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

(Q.) - - - - - - - -

STATEMENT of CAUSES decided by the EUROPEAN TRIBUNALS in the different

ZILLAHS.	BY THE JUDGE.				BY THE ASSISTANT JUDGE.			
	APPEALS.		ORIGINALS.		APPEALS.		ORIGINALS.	
	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.
Bellary	117	1	45	- -	- -	- -	- -	- -
Canara	3	6	846	307	- -	- -	- -	- -
Chingleput	40	3	130	27	- -	- -	- -	- -
Chittoor	137	12	44	16	- -	- -	- -	- -
Cochin	- -	- -	54	10	- -	- -	- -	- -
Combaconum	69	3	44	4	65	1	96	21
Cuddapah	47	14	63	31	- -	- -	- -	- -
Dharapoorum	19	1	31	1	- -	- -	- -	- -
Ganjam	19	1	28	1	- -	- -	- -	- -
Guntoor	8	1	4	7	- -	- -	- -	- -
Madura	16	6	77	73	3	2	84	35
Malabar, North	49	7	215	25	- -	- -	- -	- -
Malabar, South	104	11	355	95	- -	- -	194	25
Masulipatam	88	6	49	16	- -	- -	- -	- -
Nellore	- -	- -	51	22	- -	- -	- -	- -
Rajamundry	38	5	89	54	- -	- -	- -	- -
Salem	30	14	38	107	131	61	10	1
Seringapatam	- -	- -	13	- -	- -	- -	- -	- -
Tinnevelly	10	- -	49	13	- -	- -	- -	- -
Trichinopoly	42	10	62	8	- -	- -	- -	- -
Verdachellum	71	16	18	7	- -	- -	- -	- -
Vizagapatam	60	8	42	22	- -	- -	- -	- -
TOTAL	967	125	2,347	846	199	64	384	82

STATEMENT of CAUSES decided by the EUROPEAN TRIBUNALS in the different

ZILLAHS.	BY THE JUDGE.				BY THE - - -	
	APPEALS.		ORIGINALS.		APPEALS.	
	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.
Bellary	29	3	52	10	33	3
Canara	84	1	113	4	38	1
Chingleput	19	5	20	14	15	1
Chicacole	50	3	70	10	22	3
Chittoor	74	4	29	6	56	1
Combaconum	9	- -	21	10	70	4
Cuddapah	41	3	31	20	41	14
Madura	72	6	32	14	23	- -
Malabar	30	2	53	6	10	- -
Masulipatam	21	2	41	11	23	3
Nellore	31	3	69	9	38	4
Salem	45	4	7	1	42	3
Seringapatam	2	1	58	4	- -	- -
TOTAL	507	37	596	119	501	37

Sudder Adalut Register's Office,
23 April 1829.

(Q.)

ZILLAHS, during the Year 1815, and of CAUSES depending on 1st January 1816.

BY THE REGISTER. ORIGINALS. Decreed or Dismissed.	BY THE REGISTER. ORIGINALS. Adjusted by Razeenamah.	TOTAL APPEALS.	TOTAL ORIGINAL SUITS.	DEPENDING, on the 1st January 1816, before the JUDGE. Appeals.	DEPENDING, on the 1st January 1816, before the JUDGE. Originals.	DEPENDING, on the 1st January 1816, before the ASSISTANT JUDGE. Appeals.	DEPENDING, on the 1st January 1816, before the ASSISTANT JUDGE. Originals.	DEPENDING, on the 1st January 1816, before the REGISTER. Originals.	
155	- -	118	200	32	12	- -	- -	36	
260	22	9	1,435	183	275	- -	- -	563	
101	50	43	308	1	47	- -	- -	37	
283	95	149	438	353	86	- -	- -	166	
- -	- -	- -	64	- -	12	—	—	—	
97	19	138	281	94	106	51	68	79	
122	74	61	290	183	116	- -	- -	55	
35	2	20	69	40	15	- -	- -	99	—
49	4	20	82	44	32	- -	- -	10	
43	35	9	89	11	24	- -	- -	25	
20	14	27	303	11	58	4	28	15	
165	26	56	431	189	209	- -	- -	107	
54	5	115	728	85	224	- -	224	68	
56	44	94	165	52	32	- -	- -	97	
103	140	- -	316	- -	16	- -	- -	85	
115	46	43	304	150	189	- -	- -	288	
58	23	236	237	259	330	97	46	67	
213	11	- -	237	13	11	- -	- -	112	
38	23	10	125	1	24	- -	- -	12	
68	8	52	146	109	32	- -	- -	61	
63	33	87	121	109	48	- -	- -	81	
78	62	68	204	17	26	- -	- -	48	
2,176	738	1,355	6,573	1,936	1,924	152	367	2,111	

ZILLAHS, during the Year 1825, and of CAUSES depending on 1st January 1826.

- - REGISTER. ORIGINALS. Decreed or Dismissed.	- - REGISTER. ORIGINALS. Adjusted by Razeenamah.	TOTAL APPEALS.	TOTAL ORIGINAL SUITS.	DEPENDING, on the 1st January 1826, before the JUDGE. Appeals.	DEPENDING, on the 1st January 1826, before the JUDGE. Originals.	DEPENDING, on the 1st January 1826, before the REGISTER. Appeals.	DEPENDING, on the 1st January 1826, before the REGISTER. Originals.
121	10	68	193	15	3	3	32
157	21	124	295	198	52	158	218
29	14	40	69	68	40	79	52
171	65	78	316	125	35	22	103
57	28	135	120	82	31	42	34
20	6	83	57	51	41	46	26
90	17	99	158	51	59	79	68
96	28	101	170	28	22	- -	27
73	1	132	133	63	106	42	30
50	16	49	118	12	23	94	14
66	27	76	171	7	23	3	35
94	19	94	121	176	45	60	35
- -	- -	3	62	1	6	- -	1
1,024	252	1,082	1,983	881	486	618	675

E. E. p^r

(signed) *A. D. Campbell*, Register.

(R.) - - - - - - - - -

ABSTRACT of CAUSES decided in the PROVINCIAL COURTS - - -

DIVISIONS.	APPEALS.		ORIGINAL.		TOTAL.	DEPENDING on 1st January 1816.		
	Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.		Appeals.	Original.	TOTAL.
CENTRE - - -	59	2	14	1	76	69	12	81
NORTHERN - -	64	9	2	- -	75	220	49	269
SOUTHERN - -	59	- -	5	1	65	110	13	123
WESTERN - -	46	1	8	- -	55	50	17	67
TOTAL - - -	228	12	29	2	271	449	91	540

SUDR - - -

1815.

APPEALS.		TOTAL.	DEPENDING on the 1st January 1816.
Decreed or Dismissed.	Adjusted by Razeenamah.		
21	3	24	59

Sudr Adalut Register's Office,
23 April 1829.

(S.) - - - - - - - -

GENERAL STATEMENT, showing the NUMBER of ORIGINAL SUITS for an Amount or and under, decided by the ZILLAH JUDGES,

	Under 500 Rupees, and above 10 Rupees.			10 Rupees, and under.		
	By the Judge.	By the Register.	By the Sudder Ameens.	By the Judge.	By the Register.	By the Sudder Ameen
CENTRE DIVISION:						
Bellaree - -	42	129	389	- -	- -	87
Chingleput - -	5	25	538	- -	1	14
Chittoor - -	12	70	379	1	2	38
Cuddapah - -	40	105	535	1	2	300
TOTAL - - -	99	329	1,841	2	5	439
NORTHERN DIVISION:						
Masulipatam -	9	35	552	1	4	49
Nellore - -	18	41	110	- -	- -	5
Chicacole - -	17	207	472	4	- -	31
TOTAL - - -	44	283	1,134	5	4	85

Sudr Adalut Register's Office,
23 April 1829.

Appendix, No. 2.

Statements referred to in Letter from the *Bengal* Government, 15 June 1830

- - - - - - - - - (R.)

- - - during the Year 1815, compared with 1825.

APPEALS.		ORIGINAL.		TOTAL.	DEPENDING on 1st January 1826.		
Decreed or Dismissed.	Adjusted by Razeenamah.	Decreed or Dismissed.	Adjusted by Razeenamah.		Appeals.	Original.	TOTAL.
23	1	6	- - -	30	66	9	75
19	2	6	1	28	83	44	127
9	1	11	3	24	14	15	29
20	1	4	2	27	23	8	31
71	5	27	6	109	186	76	262

- - - ADALUT.

1825.

APPEALS.		TOTAL.	DEPENDING on the 1st January 1826.
Decreed or Dismissed.	Adjusted by Razeenamah.		
13	—	13	14

E. E. p^r^

(signed) *A. D. Campbell*, Register.

- - - - - - - - - (S.)

Value under 500 Rupees and above 10 Rupees, and for an Amount or Value of 10 Rupees Registers and Sudder Ameens, in 1825.

	Under 500 Rupees, and above 10 Rupees.			10 Rupees, and under.		
	By the Judge.	By the Register.	By the Sudder Ameens.	By the Judge.	By the Register.	By the Sudder Ameens.
Southern Division:						
Combaconum -	4	13	412	- -	- -	16
Madura - -	25	119	218	- -	- -	4
Salem - -	5	97	383	- -	1	106
Total - - -	34	229	1,013	- -	1	126
Western Division:						
Canara - -	12	77	708	47	67	8
Malabar - -	17	20	608	23	41	25
Seringapatam -	51	- -	46	—	—	—
Total - - -	80	97	1,362	70	108	33
GRAND TOTAL - -	257	938	5,350	77	118	683

E. E. p^r^

(signed) *A. D. Campbell*, Register.

(T.)—1813.

	MURDER.					ROBBERY AND MURDER.				
		Number of Prisoners.					Number of Prisoners.			
		By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.	Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.
CENTRE DIVISION:										
Bellary	5	-	-	-	3	2	-	-	-	2
Chingleput	1	-	-	-	1	-	-	-	-	-
Chittoor	3	-	-	-	3	1	-	1	-	-
Cuddapah	14	3	1	7	13	5	-	-	-	7
TOTAL	23	3	1	7	20	8	-	1	-	9
NORTHERN DIVISION:										
Ganjam	2	1	-	1	1	1	-	-	2	-
Guntoor	—	—	—	—	—	—	—	—	—	—
Masulipatam	2	3	1	-	1	4	-	-	21	14
Nellore	3	5	-	-	1	-	-	-	-	-
Rajahmundry	4	7	-	-	-	2	-	1	-	-
Vizagapatam	1	-	1	-	-	4	-	1	-	3
TOTAL	12	16	2	1	3	11	-	2	23	17
SOUTHERN DIVISION:										
Combaconum	1	2	-	-	-	1	-	-	-	1
Dharapooram	2	-	-	3	1	3	1	-	-	3
Madura	5	1	-	-	-	2	11	-	-	-
Salem	7	6	-	-	-	8	2	-	-	-
Tinnevelly	6	4	1	1	1	-	-	-	-	-
Trichinopoly	1	1	-	-	-	-	-	-	-	-
Verdachellum	1	1	-	-	-	-	-	-	-	-
TOTAL	23	15	1	4	2	14	14	-	-	4
WESTERN DIVISION:										
Canara	8	1	2	-	7	1	-	-	15	9
Cochin	3	1	-	-	1	-	-	-	-	-
North Malabar	9	8	-	-	6	1	-	-	-	-
South Malabar	9	4	1	8	5	5	2	1	12	1
Seringapatam	-	-	-	-	-	-	-	-	-	-
TOTAL	29	14	3	8	19	7	2	1	27	10
GRAND TOTAL	87	48	7	20	44	40	16	4	50	40

- - - - - - - - (T.)—1813.

ROBBERY.					HOUSEBREAKING.					THEFT.				
Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
	By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
3	- -	3	1	4	11	5	9	- -	- -	58	6	73	- -	2
1	- -	2	- -	- -	1	- -	2	- -	- -	15	10	20	—	—
6	- -	12	- -	- -	3	3	7	- -	- -	52	15	52	—	—
31	11	42	- -	3	45	31	63	7	- -	33	7	39	—	—
41	11	59	1	7	60	39	81	7	- -	158	38	184	- -	2
- -	- -	- -	- -	- -	2	- -	1	- -	- -	14	1	18	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
15	9	23	5	39	3	- -	1	4	- -	1	- -	1	—	—
14	9	15	- -	18	4	- -	1	- -	- -	20	7	11	1	—
15	12	46	- -	24	1	3	- -	- -	- -	10	20	11	—	—
5	5	1	26	5	1	- -	1	- -	- -	2	- -	3	—	—
49	35	85	31	86	11	3	4	4	- -	47	28	44	1	—
- -	16	7	- -	- -	5	1	14	- -	- -	13	1	16	—	—
6	6	10	14	21	6	3	7	- -	- -	8	1	8	—	—
- -	- -	- -	- -	- -	1	4	1	- -	- -	3	3	1	—	—
13	38	20	- -	- -	9	5	10	- -	- -	22	4	20	—	—
7	1	8	- -	- -	4	1	5	- -	- -	15	11	28	—	—
5	7	4	- -	- -	2	- -	- -	1	- -	6	- -	5	—	—
4	6	23	- -	- -	2	- -	9	- -	- -	4	4	3	—	—
46	74	72	14	21	29	14	46	1	- -	71	24	81	—	—
23	- -	11	1	6	37	- -	41	1	6	9	3	7	—	—
7	11	15	7	2	5	2	5	- -	- -	2	- -	5	—	—
7	11	3	- -	- -	13	14	22	- -	- -	8	3	9	—	—
15	11	51	- -	- -	24	16	58	- -	- -	6	2	8	—	—
1	- -	1	- -	- -	5	5	4	- -	- -	4	3	4	—	—
53	33	81	8	8	84	37	130	1	6	29	11	33	—	—
189	153	297	54	122	184	93	261	13	6	305	101	342	1	2

(T.)—1814.

	MURDER.					ROBBERY AND MURDER.				
		Number of Prisoners.					Number of Prisoners.			
		By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.	Number of Cases.	Acquitted	Convicted.	Acquitted.	Convicted.
CENTRE DIVISION:										
Bellary	12	7	3	1	3	8	4	2	- -	8
Chingleput	2	54	- -	1	- -	- -	- -	- -	- -	- -
Chittoor	10	17	2	1	9	1	- -	- -	1	- -
Cuddapah	9	10	- -	4	1	4	- -	- -	- -	8
TOTAL	33	88	5	7	13	13	4	2	1	16
NORTHERN DIVISION:										
Ganjam	3	1	- -	7	- -	1	- -	- -	1	- -
Guntoor	—	—	—	—	—	—	—	—	—	—
Masulipatam	2	1	- -	- -	2	1	2	- -	- -	- -
Nellore	3	2	1	1	- -	- -	- -	- -	- -	- -
Rajamundry	8	11	- -	4	7	2	1	- -	1	2
Vizagapatam	2	1	- -	- -	- -	2	2	- -	9	6
TOTAL	18	16	1	12	9	6	5	- -	11	8
SOUTHERN DIVISION:										
Combaconum	7	16	5	1	1	1	- -	- -	- -	4
Dharapooram	5	3	- -	1	2	- -	- -	- -	- -	- -
Mudura	4	- -	- -	- -	4	2	- -	- -	10	- -
Salem	8	5	- -	3	1	14	8	- -	16	9
Tinnevelly	3	- -	- -	- -	1	- -	- -	- -	- -	- -
Trichinopoly	2	6	- -	1	1	- -	- -	- -	- -	- -
Verdachellum	2	1	4	- -	- -	1	- -	- -	- -	- -
TOTAL	31	31	9	6	10	18	8	- -	26	13
WESTERN DIVISION:										
Canara	8	3	1	- -	9	3	- -	- -	- -	18
Cochin	1	- -	- -	1	- -	- -	- -	- -	- -	- -
North Malabar	3	1	- -	5	1	- -	- -	- -	- -	- -
South Malabar	17	20	9	1	9	6	- -	- -	3	17
Seringapatam	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
TOTAL	29	24	10	7	19	9	- -	- -	3	35
GRAND TOTAL	111	159	25	32	51	46	17	2	41	72

- - - - - - - - (T.)—1814.

ROBBERY.					HOUSEBREAKING.					THEFT.				
Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
	By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
3	- -	6	- -	- -	9	3	15	- -	1	70	28	77	—	—
6	- -	2	- -	8	7	- -	9	- -	- -	18	9	12	- -	1
12	3	18	- -	- -	5	1	8	- -	- -	35	10	39	—	—
24	9	32	- -	8	51	34	48	5	2	38	9	61	—	—
45	12	58	- -	16	72	38	80	5	3	161	56	189	- -	1
- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	1	- -	1	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
2	- -	4	- -	1	3	- -	9	- -	- -	1	1	1	—	—
2	7	2	- -	- -	8	2	7	- -	- -	9	2	3	—	—
10	17	15	4	2	- -	- -	- -	- -	- -	20	11	6	4	—
3	4	12	13	1	2	- -	4	- -	- -	1	- -	2	—	—
17	28	33	17	4	13	2	20	- -	- -	32	14	13	4	—
4	- -	14	- -	- -	8	1	10	- -	- -	11	17	7	—	—
5	5	5	- -	- -	4	5	10	- -	- -	4	1	6	—	—
5	12	15	- -	- -	- -	- -	- -	- -	- -	5	1	7	—	—
9	16	4	21	- -	14	17	24	- -	- -	16	6	18	—	—
12	2	30	- -	1	1	- -	1	- -	- -	17	2	16	—	—
15	7	19	- -	- -	1	- -	1	- -	- -	13	- -	7	—	—
- -	- -	- -	- -	- -	1	- -	1	- -	- -	5	8	6	—	—
50	42	87	21	1	29	23	47	- -	- -	71	35	67	—	—
14	1	23	- -	- -	44	- -	42	- -	- -	17	1	9	—	—
3	16	5	- -	- -	3	1	6	- -	- -	2	4	12	—	—
1	1	- -	- -	- -	9	4	2	- -	- -	2	2	2	—	—
36	20	47	1	- -	22	15	56	5	3	4	4	5	—	—
- -	- -	- -	- -	- -	1	- -	1	- -	- -	9	6	5	—	—
54	38	75	1	- -	79	20	117	5	3	34	17	33	—	—
166	120	253	39	21	193	83	264	10	6	298	122	302	4	1

(T.)—1815.

	MURDER.					ROBBERY AND MURDER.				
		Number of Prisoners.					Number of Prisoners.			
		By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.	Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.
CENTRE DIVISION:										
Bellary	14	5	2	-	3	7	3	29	4	5
Chingleput	3	5	3	-	-	-	-	-	-	-
Chittoor	3	1	-	1	1	1	-	-	-	1
Cuddapah	3	5	1	-	1	-	-	-	-	-
TOTAL	23	16	6	1	5	8	3	29	4	6
NORTHERN DIVISION:										
Ganjam	1	-	-	1	-	2	2	-	-	-
Guntoor	1	-	-	2	-	-	-	-	-	-
Masulipatam	-	-	-	-	-	-	-	-	-	-
Nellore	2	1	-	4	-	-	-	-	-	-
Rajahmundry	1	-	-	2	-	3	1	-	6	1
Vizagapatam	6	-	-	2	-	2	-	-	1	-
TOTAL	11	1	-	11	-	7	3	-	7	1
SOUTHERN DIVISION:										
Combaconum	3	6	-	1	1	1	-	-	-	1
Dharapooram	-	-	-	-	-	2	5	5	-	-
Madura	1	-	2	-	-	2	-	-	1	-
Salem	5	6	-	-	1	40	101	9	8	6
Tinnevelly	4	-	2	1	1	-	-	-	-	-
Trichinopoly	2	2	2	-	-	3	2	-	2	-
Verdachellum	2	1	-	2	1	1	1	-	-	1
TOTAL	17	15	6	4	4	49	109	14	11	8
WESTERN DIVISION:										
Canara	12	12	4	11	-	1	-	-	-	1
Cochin	-	-	-	-	-	-	-	-	-	-
North Malabar	4	-	2	4	-	1	-	-	-	2
South Malabar	15	11	-	12	3	1	-	1	-	-
Seringapatam	—	—	—	—	—	—	—	—	—	—
TOTAL	31	23	6	27	3	3	-	1	-	3
GRAND TOTAL	82	55	18	43	12	67	115	44	22	18

ABSTRACT:

	CIRCUIT COURT.		FOUJDARRY COURT.	
	Convictions.	Acquittals.	Convictions.	Acquittals.
1813: Murder	7	48	44	20
Murder and Robbery	4	16	40	50
Robbery	297	153	122	54
Housebreaking	261	93	6	13
Theft	342	101	2	1
1814: Murder	25	159	51	32
Murder and Robbery	2	17	72	41
Robbery	253	120	21	39
Housebreaking	264	83	6	10
Theft	302	122	1	4

Foujdarry Adalut Register's Office,
23 April 1829.

(T.)—1815.

ROBBERY.					HOUSEBREAKING.					THEFT.				
	Number of Prisoners.					Number of Prisoners.					Number of Prisoners.			
	By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.	Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.	Number of Cases.	Acquitted.	Convicted.	Acquitted.	Convicted.
10	8	12	- -	3	4	3	7	- -	- -	67	14	77	1	1
6	8	11	- -	- -	4	- -	13	- -	- -	11	8	3	—	—
10	8	15	3	2	2	1	1	- -	- -	54	14	64	1	1
23	8	38	3	- -	22	13	25	1	- -	30	3	37	2	—
49	32	76	6	5	32	17	46	1	- -	162	39	181	4	2
- -	- -	- -	- -	- -	1	- -	2	—	—	—	—	—	—	—
18	16	36	- -	- -	15	2	31	- -	- -	5	- -	4	—	—
8	3	36	- -	- -	9	- -	20	- -	- -	2	2	1	—	—
5	8	20	- -	- -	10	1	8	- -	- -	6	2	5	—	—
14	35	61	- -	- -	7	10	11	- -	- -	6	3	6	—	—
3	- -	12	- -	- -	2	- -	3	- -	- -	2	4	1	—	—
48	62	165	- -	- -	44	13	75	- -	- -	21	11	17	—	—
3	- -	4	- -	- -	7	1	17	- -	- -	5	- -	7	—	—
5	5	5	- -	- -	12	2	33	- -	- -	6	1	8	—	—
6	1	16	- -	- -	2	- -	3	- -	- -	2	2	1	—	—
6	3	7	- -	- -	7	11	8	- -	- -	35	9	36	—	—
9	18	22	9	- -	5	1	8	- -	- -	7	- -	7	—	—
18	- -	33	- -	- -	- -	- -	- -	- -	- -	4	- -	3	—	—
1	- -	1	- -	- -	- -	- -	- -	- -	- -	10	5	37	—	—
48	27	88	9	- -	33	15	69	- -	- -	69	17	89	—	—
7	7	10	- -	- -	8	4	9	—	—	—	—	—	—	—
1	- -	1	- -	- -	1	- -	1	—	—	—	—	—	—	—
- -	- -	- -	- -	- -	5	- -	4	- -	- -	1	- -	1	—	—
31	26	36	4	- -	7	1	11	2	7	—	—	—	—	—
—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
39	33	47	4	- -	21	5	25	2	7	1	- -	1	—	—
184	154	376	19	5	130	50	215	3	7	253	67	288	4	2

ABSTRACT:

	CIRCUIT COURT.		FOUJDARRY COURT.	
	Convictions.	Acquittals.	Convictions.	Acquittals.
1815: Murder - - - - -	18	55	12	43
Murder and Robbery - - -	44	115	18	22
Robbery - - - - -	376	154	5	19
Housebreaking - - - -	215	50	7	3
Theft - - - - -	288	67	2	4
TOTAL - - -	2,698	1,353	409	355

E. E. p^r

(signed) *A. D. Campbell*, Register.

(U.)—1825.

	MURDER.					ROBBERY AND MURDER.				
	Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
		By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
CENTRE DIVISION:										
Bellaree	9	11	–	4	4	5	1	–	8	2
Chingleput	5	34	3	4	1	5	6	–	3	2
Chittoor	7	9	1	1	1	–	–	–	–	–
Cuddapah	9	1	–	7	3	8	1	–	7	7
Total	30	55	4	16	9	18	8	–	18	11
NORTHERN DIVISION:										
Chicacole	3	–	–	–	2	5	2	–	3	–
Masulipatam	8	12	–	1	2	2	8	–	7	–
Nellore	7	1	–	3	9	4	–	–	6	10
Total	18	13	–	4	13	11	10	–	16	10
SOUTHERN DIVISION:										
Combaconum	5	4	–	12	7	1	–	–	1	–
Madura	8	6	–	5	19	4	1	–	10	2
Salem	4	5	–	4	1	3	8	–	1	–
Total	17	15	–	21	27	8	9	–	12	2
WESTERN DIVISION:										
Canara	14	13	–	7	3	1	–	–	1	–
Malabar	22	13	–	13	6	1	1	–	–	–
Seringapatam	1	–	–	–	–	–	–	–	–	–
Total	37	26	–	20	9	2	1	–	1	–
GRAND TOTAL	102	109	4	61	58	39	28	–	47	23

\- - - - - - - - (U.)—1825.

ROBBERY.					HOUSEBREAKING.					THEFT.				
Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
	By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
20	24	20	12	9	6	3	7	–	–	2	1	2	–	–
30	65	41	17	–	8	24	5	–	–	8	15	3	–	–
29	13	24	–	11	19	6	19	1	3	1	–	1	–	–
147	519	63	129	220	55	51	38	27	28	20	28	5	4	23
226	621	148	158	240	88	84	69	28	31	31	44	11	4	23
16	57	17	4	3	3	8	1	–	–	–	–	–	–	–
16	28	6	6	5	2	3	1	–	–	2	–	1	–	–
49	30	20	2	141	15	2	9	–	–	14	3	4	–	–
81	115	43	12	149	20	13	11	–	–	16	3	5	–	–
8	51	5	–	1	5	2	6	–	–	1	–	1	–	–
15	61	4	1	–	5	6	7	–	–	3	–	5	–	–
11	18	27	–	–	7	6	3	–	–	3	1	–	–	–
34	130	36	1	1	17	14	16	–	–	7	1	6	–	–
8	17	6	–	–	15	15	11	–	–	4	5	–	–	–
10	50	10	–	–	17	7	23	–	–	16	4	13	–	–
–	–	–	–	–	2	2	3	–	–	1	1	–	–	–
18	67	16	–	–	34	24	37	–	–	21	10	13	–	–
359	933	243	171	390	159	135	133	28	31	75	58	35	4	23

(U.)—1826. - - - - - - - - -

	MURDER.					ROBBERY AND MURDER.				
	Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
		By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
CENTRE DIVISION:										
Bellaree - - - -	6	2	–	1	2	4	1	–	1	1
Chingleput - - - -	4	10	–	–	–	–	–	–	–	–
Chittoor - - - -	1	3	–	–	–	2	9	–	–	5
Cuddapah - - - -	15	5	–	16	5	3	3	–	4	1
Total -	26	20	–	17	7	9	13	–	5	7
NORTHERN DIVISION:										
Chicacole - - - -	4	1	28	–	1	3	1	1	8	–
Masulipatam - - - -	8	5	1	2	3	–	–	–	–	–
Nellore - - - - -	4	3	–	–	2	2	6	–	2	–
Total -	16	9	29	2	6	5	7	1	10	–
SOUTHERN DIVISION:										
Combaconum - - - -	2	1	–	2	–	2	4	–	2	–
Madura - - - - -	11	11	–	1	3	3	13	–	–	1
Salem - - - - -	2	1	–	–	1	4	5	–	–	1
Total -	15	13	–	3	4	9	22	–	2	2
WESTERN DIVISION:										
Canara - - - - -	9	17	–	–	7	2	6	–	–	–
Malabar - - - -	17	16	2	3	8	–	–	–	–	–
Seringapatam - - - -	1	1	–	–	–	–	–	–	–	–
Total -	27	34	2	3	15	2	6	–	–	–
GRAND TOTAL - -	84	76	31	25	32	25	47	1	17	9

\- - - - - - - - - (U.)—1826.

ROBBERY.					HOUSEBREAKING.					THEFT.				
Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
	By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
14	30	24	–	3	1	8	1	–	–	1	–	–	–	–
23	58	11	11	5	5	11	1	–	5	6	7	2	–	–
17	24	7	24	16	21	21	11	–	–	5	2	4	–	–
24	20	29	8	11	20	17	16	9	4	4	3	3	–	1
78	132	71	43	35	47	57	29	9	9	16	12	9	–	1
18	25	12	1	–	1	–	1	10	–	1	–	–	–	1
15	39	2	5	13	13	18	6	4	–	3	1	1	–	–
35	4	28	–	–	12	–	10	–	–	16	1	16	3	–
68	68	42	6	13	26	18	17	14	–	20	2	17	3	1
23	48	45	16	–	9	8	4	–	–	8	2	6	–	–
16	94	6	–	–	3	4	7	–	–	4	9	1	–	–
15	24	24	–	–	8	4	12	–	–	2	–	1	–	–
54	166	75	16	–	20	16	23	–	–	14	11	8	–	–
16	54	20	–	4	6	5	5	–	–	8	2	3	–	–
12	28	1	–	–	22	33	6	–	–	11	6	2	–	2
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
28	82	21	–	4	28	38	11	–	–	19	8	5	–	2
228	448	209	65	52	121	129	80	23	9	69	33	39	3	4

(U.)—1827. - - - - - - - - -

	MURDER.					ROBBERY AND MURDER.				
	Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
		By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
CENTRE DIVISION:										
Bellaree - - - -	9	4	2	1	4	1	–	–	10	–
Chingleput - - - -	5	4	–	19	–	–	–	–	–	–
Chittoor - - - - -	6	8	1	4	–	2	–	–	2	5
Cuddapah - - - -	11	20	–	9	7	7	2	–	10	14
Total -	31	36	3	24	11	10	2	–	22	19
NORTHERN DIVISION:										
Chicacole - - - -	9	3	1	1	1	1	–	–	–	–
Masulipatam - - - -	8	26	–	3	3	2	–	–	2	–
Nellore - - - - -	3	2	–	1	–	1	–	–	1	–
Total -	20	31	1	5	4	4	–	–	3	–
SOUTHERN DIVISION:										
Combaconum - - -	5	5	–	1	–	2	–	–	–	5
Madura - - - - -	7	10	–	–	1	1	–	–	–	1
Salem - - - - -	8	6	1	2	2	–	–	–	–	–
Total -	20	21	1	3	3	3	–	–	–	6
WESTERN DIVISION:										
Canara - - - - -	9	4	1	1	1	–	–	–	–	–
Malabar - - - -	19	16	1	5	7	–	–	–	–	–
Seringapatam - - - -	–	–	–	–	–	–	–	–	–	–
Total -	28	20	2	6	8	–	–	–	–	–
GRAND TOTAL -	99	108	7	38	26	17	2	–	25	25

(U.)—1827.

ROBBERY.					HOUSEBREAKING.					THEFT.				
Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.				Number of Cases.	Number of Prisoners.			
	By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.			By the Circuit Court.		By the Foujdarry Adalut.	
	Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.		Acquitted.	Convicted.	Acquitted.	Convicted.
26	17	14	12	1	2	–	2	–	–	–	–	–	–	–
16	28	2	18	14	1	2	–	–	–	2	1	1	–	–
10	13	8	15	8	8	10	6	2	–	3	4	1	–	–
14	10	15	–	5	9	7	8	–	–	3	1	2	–	–
66	68	39	45	28	20	19	16	2	–	8	6	4	–	–
7	21	4	–	–	1	–	1	–	–	1	–	2	–	–
18	75	2	4	–	4	6	2	–	–	4	3	–	–	–
13	6	14	2	–	14	1	12	–	–	8	4	7	–	–
38	102	20	6	–	19	7	15	–	–	13	7	9	–	–
23	63	25	–	12	5	16	2	–	–	5	6	2	–	–
17	47	29	–	–	8	6	6	–	–	6	16	8	–	–
10	24	7	–	4	1	2	–	–	–	1	–	1	–	–
50	134	61	–	16	14	24	8	–	–	12	22	11	–	–
16	13	30	6	–	5	5	–	–	–	2	–	2	–	–
13	17	4	–	–	13	7	2	–	–	4	5	1	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
29	30	34	6	–	18	12	2	–	–	6	5	3	–	–
183	334	154	57	44	71	62	41	2	–	39	40	27	–	–

ABSTRACT:

	CIRCUIT COURT:	
	CONVICTIONS.	ACQUITTALS.
1825:		
Murder	4	109
Murder and Robbery	-	28
Robbery	243	933
Housebreaking	133	135
Theft	35	58
1826:		
Murder	31	76
Murder and Robbery	1	47
Robbery	209	448
Housebreaking	80	129
Theft	39	33
1827:		
Murder	7	108
Murder and Robbery	-	2
Robbery	154	334
Housebreaking	41	62
Theft	27	40
	1,004	2,542

	FOUJDARRY COURT:	
	CONVICTIONS.	ACQUITTALS.
1825:		
Murder	58	61
Murder and Robbery	23	47
Robbery	390	171
Housebreaking	31	28
Theft	23	4
1826:		
Murder	32	25
Murder and Robbery	9	17
Robbery	52	65
Housebreaking	9	23
Theft	4	3
1827:		
Murder	26	38
Murder and Robbery	25	25
Robbery	44	57
Housebreaking	-	2
Theft	—	—
	726	566

E. E. p^r

(signed) *A. D. Campbell*, Reg^r.

Appendix, No. 2.

Statements referred to in Letter from the *Bengal* Government, 15 June 1830.

(V.)

STATEMENT showing the Number of PRISONERS under Examination before the CRIMINAL JUDGES on 1st January 1825, 1826 and 1827, respectively.

ZILLAHS.	BEFORE THE CRIMINAL JUDGES, on the 1st January		
	1825.	1826.	1827.
Bellaree - - - - -	74	16	19
Chingleput - - - - -	475	59	14
Chittoor - - - - -	166	142	36
Cuddapah - - -	56	49	9
Masulipatam - - - -	5	44	16
Chicacole - - - - -	39	27	33
Nellore - - - - -	27	33	1
Combaconum - - - -	19	23	25
Madura - - - - -	13	- - -	53
Salem - - - - -	14	10	4
Canara - - - - -	30	75	16
Malabar - - - - -	62	92	55
Seringapatam - - - -	—	—	—
TOTAL - -	980	570	281

Foujdarry Adalut Register's Office, 23d April 1829.

E. E.

(signed) *A. D. Campbell,* Register.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

(W.) - - - - - - - -

GENERAL STATEMENT of the Number of PERSONS PUNISHED, RELEASED and SENT Examination by the Magistracy

	PUNISHED.				RELEASED.			
	By the Magistrate.	By the Assistants to the Magistrate.	By the Native Police Officers.	TOTAL.	By the Magistrate.	By the Assistants to the Magistrate.	By the Native Police Officers.	TOTAL.
CENTRE DIVISION:								
Bellaree - - - -	5	62	997	1,064	15	184	76	275
Chingleput - - -	174	31	779	984	444	251	780	1,475
Verdachellum - - -	22	20	228	330	35	72	14	121
Chittoor - - - -	39	193	1,136	1,368	79	536	955	1,570
Cuddapah - - -	–	156	2,117	2,273	–	271	2,187	2,458
Total -	240	462	5,317	6,019	573	1,314	4,012	5,899
NORTHERN DIVISION:								
Masulipatam - - -	15	236	1,228	1,479	5	116	48	169
Rajahmundry - - -	3	56	150	209	4	107	315	426
Nellore - - - -	68	2	1,299	1,369	97	5	1,963	2,065
Guntoor - - - -	27	4	366	397	13	1	241	255
Ganjam - - - -	33	115	361	509	234	153	894	1,281
Vizagapatam - - -	89	15	887	991	114	18	282	414
Total -	235	428	4,291	4,954	467	400	3,743	4,610
SOUTHERN DIVISION:								
Trichinopoly - - -	33	12	939	984	213	22	937	1,172
Tanjore - - - -	–	365	620	985	–	143	80	223
Salem - - - -	38	77	570	685	83	53	624	760
Coimbatore - - -	17	36	365	418	11	39	90	140
Madura - - - -	440	257	2,325	3,022	629	284	1,049	1,962
Tinnevelly - - -	7	7	113	127	91	69	731	891
Total -	535	754	4,932	6,221	1,027	610	3,511	5,148
WESTERN DIVISION:								
Canara - - - -	211	541	1,769	2,521	199	938	483	1,620
Malabar - - - -	105	93	1,452	1,650	126	75	1,499	1,700
Seringapatam - - -	76	–	–	76	36	–	–	36
Total -	392	634	3,221	4,247	361	1,013	1,982	3,356
GRAND TOTAL - -	1,402	2,278	17,761	21,441	2,428	3,337	13,248	19,013

Foujdaree Adalut Register's Office,
23 April 1829.

(W.)

to the CRIMINAL JUDGE by the Magistracy in 1825, and of PERSONS in CUSTODY under on the 1st January 1826.

SENT UP TO THE CRIMINAL JUDGE.				UNDER EXAMINATION.			
By the Magistrate.	By the Assistants to the Magistrate.	By the Native Police Officers.	TOTAL.	By the Magistrate.	By the Assistants to the Magistrate.	By the Native Police Officers.	TOTAL.
5	86	461	552	3	6	17	26
44	95	547	686	–	–	187	187
16	42	233	291	–	18	13	31
24	178	1,025	1,227	18	43	288	349
–	23	1,056	1,079	–	3	31	34
89	424	3,322	3,835	21	70	536	627
9	39	271	319	–	1	–	1
5	24	175	204	–	–	24	24
14	–	466	480	3	–	39	42
–	–	172	172	1	–	7	8
16	20	55	91	–	–	–	–
65	8	111	184	–	–	–	–
109	91	1,250	1,450	4	1	70	75
72	5	106	183	7	–	–	7
3	97	515	615	–	4	–	4
8	9	704	721	–	–	–	–
–	–	331	331	–	–	–	–
20	12	314	346	–	–	–	–
37	33	184	254	–	–	33	33
140	156	2,154	2,450	7	4	33	44
33	100	489	622	2	–	10	12
82	1	1,163	1,246	–	–	12	12
45	–	–	45	–	–	–	–
160	101	1,652	1,913	2	–	22	24
498	772	8,378	9,648	34	75	661	770

E. E. p^{r}

(signed) *A. D. Campbell*, Register.

(X.) - - - - - - - - -

STATEMENT showing the Number of PERSONS APPREHENDED and DELIVERED

	1825:									
	MURDER.		ROBBERY and MURDER.		ROBBERY without MURDER.		HOUSEBREAKING.		THEFT.	
	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.
CENTRE DIVISION:										
Bellary	14	26	3	4	82	74	115	45	268	284
Chingleput	7	18	2	5	8	21	64	237	79	253
Chittoor	5	22	5	15	61	144	98	85	428	664
Cuddapah	37	74	1	12	104	151	189	216	375	592
Total	63	140	11	36	255	390	466	583	1,150	1,793
NORTHERN DIVISION:										
Masulipatam	11	30	1	–	47	63	79	67	50	77
Rajahmundry	13	9	4	12	39	21	227	58	36	85
Nellore	9	9	–	–	39	37	26	19	38	36
Guntoor	4	11	5	8	26	14	163	100	21	66
Vizagapatam	1	3	1	7	24	88	3	5	18	75
Ganjam	14	18	5	8	26	11	96	2	136	20
Total	52	80	16	35	201	234	594	251	299	359
SOUTHERN DIVISION:										
Combaconum	5	11	1	1	26	125	8	31	91	240
Trichinopoly	–	–	–	–	14	90	–	–	22	65
Darapooram	15	32	1	19	2	–	63	15	55	67
Salem	10	16	1	3	44	43	57	33	73	126
Madura	12	31	2	10	80	165	6	13	18	57
Tinnevelly	6	5	2	13	24	12	178	58	38	49
Verdachellum	7	34	–	–	15	19	42	11	106	150
Total	55	129	7	46	205	454	354	161	403	754
WESTERN DIVISION:										
Canara	16	41	2	5	141	275	135	92	22	22
Malabar	34	60	–	–	10	57	111	169	25	25
Seringapatam	1	1	–	–	–	–	2	4	7	10
Total	51	102	2	5	151	332	248	265	54	57
GRAND TOTAL	221	451	36	122	812	1,410	1,662	1,260	1,901	2,963

Foujdarry Adalut Register's Office,
23 April 1829.

\- - - - - - - - - (X.)

OVER to the CRIMINAL JUDGES in 1825, 1826 and 1827 respectively.

1826:										1827:									
MURDER.		ROBBERY and MURDER.		ROBBERY without MURDER.		HOUSE-BREAKING.		THEFT.		MURDER.		ROBBERY and MURDER.		ROBBERY without MURDER.		HOUSE-BREAKING.		THEFT.	
Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.	Number of Cases.	Number of Prisoners.
12	17	8	23	106	136	115	67	164	123	12	13	7	27	112	102	140	53	170	103
3	16	–	–	4	10	12	25	24	65	3	14	–	–	2	11	12	33	9	39
5	31	1	14	28	18	132	47	195	206	5	15	2	2	27	51	24	81	166	191
32	81	1	–	89	84	276	95	568	355	33	75	19	1	92	51	345	94	624	182
52	145	10	37	227	248	535	234	951	749	53	117	28	30	233	215	708	261	969	515
15	17	1	–	18	93	29	30	27	73	8	12	2	3	22	37	26	30	13	32
6	15	2	–	29	54	281	44	21	24	8	21	5	8	79	72	284	47	10	17
5	12	–	–	5	7	16	35	12	3	9	16	2	2	25	31	28	37	21	32
3	–	1	–	17	7	170	68	7	9	4	6	3	–	11	10	143	93	4	26
8	20	1	11	8	21	6	19	20	73	7	7	–	–	8	36	2	7	11	46
8	10	3	1	13	7	82	16	150	59	8	13	2	8	5	4	93	11	107	138
45	74	8	12	90	189	584	212	237	241	44	75	14	21	150	190	576	225	166	291
1	–	–	–	20	108	11	39	58	141	8	25	1	3	20	98	9	18	73	219
9	21	–	–	6	29	17	–	53	113	1	2	–	–	3	6	17	5	83	94
11	28	–	–	–	–	53	21	30	23	4	11	1	8	–	–	30	8	34	31
10	61	3	8	27	27	23	9	36	35	10	23	–	–	13	20	53	30	54	48
5	16	–	–	51	107	5	21	19	77	6	10	2	7	24	45	4	8	14	66
22	30	1	12	54	31	135	120	39	17	11	43	–	–	40	32	75	27	33	35
1	1	–	–	5	3	33	3	97	28	5	3	–	–	10	3	31	8	85	31
59	157	4	20	163	305	277	213	332	434	45	117	4	18	110	204	219	104	376	524
8	22	3	2	122	100	157	56	25	38	6	8	10	20	139	200	176	71	28	38
20	38	–	–	10	28	85	79	23	47	28	65	–	–	12	54	88	95	28	88
–	–	–	–	1	1	–	–	4	5	1	2	–	–	–	–	–	–	1	1
28	60	3	2	133	129	242	135	52	90	35	75	10	20	151	254	264	166	57	127
184	436	25	71	613	871	1,638	794	1,572	1,514	177	384	56	89	644	863	1,767	756	1,568	1,457

E. E. p^r

(signed) *A. D. Campbell*, Register.

(Y.) - - - - - - - - - -

STATEMENT showing the NUMBER of PERSONS APPREHENDED, RELEASED and PUNISHED, together with the Nature and by the Foujdarry Adalut, from the

	MAGISTRATES.																	
	Total Number of Crimes committed of every Description.	Total Number of Persons apprehended by the Police.	Number of Cases disposed of			Number of Persons Acquitted			Number of Persons Convicted			Punishments inflicted by the District Police Officers.			Punishments inflicted by the Magistrates.			Total Number of Persons sent by the District Police Officers and the Magistrates to the Criminal Judge.
			By the Police Officers.	By the Magistrates.	TOTAL.	By the Police Officers.	By the Magistrates.	TOTAL.	By the Police Officers.	By the Magistrates.	TOTAL.	Number of Persons Fined.	Number of Persons Imprisoned.	Number of Persons Flogged.	Number of Persons Fined.	Number of Persons Imprisoned.	Number of Persons Flogged.	
1825:																		
Centre Division	6,145	10,242	3,645	719	4,364	2,666	1,149	3,815	2,324	333	2,657	–	617	1,707	–	197	136	3,770
Northern ditto	3,229	5,494	1,926	289	2,215	890	421	1,311	2,399	334	2,733	–	1,031	1,368	–	193	141	1,450
Southern ditto	5,001	9,118	2,824	811	3,635	1,874	1,060	2,934	2,791	916	3,707	–	1,115	1,676	–	744	202	2,440
Western ditto	2,553	5,015	943	653	1,596	821	848	1,669	944	488	1,432	–	611	333	–	354	134	1,913
TOTAL -	16,928	29,869	9,338	2,472	11,810	6,251	3,478	9,729	8,458	2,071	10,529	–	3,374	5,054	–	1,488	613	8,573
1826:																		
Centre Division	4,626	6,662	2,231	618	2,849	1,870	1,276	3,146	1,365	197	1,562	–	624	741	–	164	33	1,944
Northern ditto	2,340	3,818	1,179	235	1,414	691	416	1,107	1,414	226	1,640	–	877	537	–	179	47	1,071
Southern ditto	4,745	8,688	2,454	630	3,084	2,399	873	3,272	2,443	833	3,276	–	1,276	1,167	–	745	99	2,070
Western ditto	2,170	3,946	872	607	1,479	833	608	1,441	847	530	1,377	–	533	314	–	364	166	1,114
TOTAL -	13,881	23,114	6,736	2,090	8,826	5,793	3,173	8,966	6,069	1,786	7,855	–	3,310	2,759	–	1,452	345	6,199
1827:																		
Centre Division	4,110	4,790	1,420	453	1,873	859	814	1,673	1,071	191	1,262	–	476	595	–	162	29	1,855
Northern ditto	2,160	3,905	1,043	272	1,315	720	395	1,115	1,402	444	1,846	–	1,007	395	–	363	81	944
Southern ditto	4,717	8,515	2,213	821	3,034	1,680	1,372	3,043	2,651	784	2,435	–	1,666	985	–	700	89	2,001
Western ditto	2,310	4,262	878	559	1,437	903	658	1,561	855	539	1,394	–	560	295	–	406	133	1,248
TOTAL -	13,297	21,472	5,554	2,005	7,659	4,162	3,239	7,392	5,979	1,958	7,937	–	3,709	2,270	–	1,631	332	6,048

Foujdaree Adalut Register's Office,
23 April 1829.

(Y.)

of all Punishments inflicted by the several Heads of District Police, Magistrates, Criminal Judges, and Courts of Circuit, Year 1825 to 1827 inclusive.

CRIMINAL JUDGES.							COURTS OF CIRCUIT.							FOUJDAREE ADALUT.					
Number of Persons Received.	Number of Persons Acquitted.	Number of Persons Convicted.	Punishments inflicted by the Criminal Judges.			Number of Persons committed for Trial before the Court of Circuit.	Number of Persons Acquitted.	Number of Persons Convicted.	Punishments inflicted by the Courts of Circuit.				Number of Persons referred to the Foujdarry Adalut.	Number of Persons Acquitted.	Number of Persons Convicted.	SENTENCED.			
			Number of Persons Fined.	Number of Persons Imprisoned.	Number of Persons Flogged.				Number of Persons Fined.	Number of Persons Imprisoned.	Number of Persons Flogged.	Number of Persons Banished.				Death.	Transportation.	Imprisonment.	Flogged.
3,843	2,205	1,001	156	838	7	802	864	227	–	227	–	–	545	191	338	8	45	288	–
1,481	571	487	52	431	4	356	177	59	–	59	–	–	217	58	117	13	40	64	–
2,434	1,547	472	31	431	10	401	215	69	–	69	–	–	75	73	70	13	11	46	–
1,955	961	448	104	338	6	421	178	112	–	112	–	–	42	32	43	12	19	12	–
9,713	5,284	2,408	343	2,038	27	1,980	1,434	467	–	467	–	–	879	254	568	46	115	410	–
1,955	1,220	398	69	321	8	557	284	131	–	131	–	–	144	284	127	9	16	101	1
974	579	137	9	123	5	257	153	112	–	112	–	–	63	55	65	4	9	52	–
2,128	1,165	471	74	394	3	462	262	116	–	116	–	–	36	9	18	4	–	14	–
1,171	762	294	65	227	2	235	241	67	–	67	–	–	31	3	18	4	4	10	–
6,228	3,726	1,300	217	1,065	18	1,511	940	426	–	426	–	–	274	351	228	21	29	177	1
1,892	1,118	274	60	212	2	342	165	84	6	78	–	–	180	80	53	7	10	36	–
914	488	145	1	137	7	224	174	55	–	55	–	–	22	23	6	2	1	3	–
2,154	1,322	445	91	351	3	365	245	116	–	116	–	–	32	19	17	1	3	13	–
1,322	699	242	56	182	4	303	101	53	–	53	–	–	36	4	13	2	–	11	–
6,282	3,627	1,106	208	882	16	1,334	685	388	6	302	–	–	270	126	89	12	14	63	–

E. E.

(signed) *A. D. Campbell*, Registe

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

(Z.) - - - - - -

STATEMENT showing the NUMBER of CAUSES brought before the COLLECTORS in the Regulation V. of 1822, and referred by them

ZILLAHS.	CAUSES REFERRED from 1816 to 1826.		CAUSES DEPENDING on 1st January 1825.		Disposed of in 1825.	
	Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.	Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.	Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.
CENTRE DIVISION:						
Bellary - -	–	–	–	–	–	–
Chingleput - -	26	–	7	–	–	–
Chittoor, N. D. of Arcot - -	3	–	–	–	–	–
Cuddapah - -	–	–	–	–	–	–
Southern Division of Arcot - -	8	41	1	1	–	1
Total -	37	41	8	1	–	1
NORTHERN DIVISION:						
Ganjam - -	24	12	2	2	2	7
Guntoor - -	–	–	–	–	–	–
Masulipatam -	2	1	1	–	–	–
Nellore - -	2	–	–	–	–	–
Rajahmundry -	14	3	1	–	3	–
Vizagapatam -	2	–	–	–	1	–
Total -	44	16	4	2	6	7
SOUTHERN DIVISION:						
Coimbatore - -	305	–	77	–	28	–
Madura - -	–	19	–	2	–	2
Salem - - -	9	34	2	1	2	1
Tanjore - -	–	–	–	–	–	–
Tinnevelly - -	10	7	1	2	–	–
Trichinopoly -	5	7	–	2	–	2
Total -	329	67	80	7	30	5
WESTERN DIVISION:						
Canara - -	–	–	–	–	–	–
Malabar - -	108	36	62	27	3	10
Total -	108	36	62	27	3	10
GRAND TOTAL -	518	160	154	37	39	23

Sudder Adalut Register's Office,
23 April 1829.

- - - - - - - (Z.)

several DIVISIONS, under Section IV. Regulation XII. of 1816, and Section XVIII. to Punchayets, from 1816 to 1828.

Remaining undecided on 1st January 1826.		Disposed of in 1826.		Remaining undecided on 1st January 1827.		Disposed of in 1827.		Remaining undecided on 1st January 1828.	
Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.	Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.	Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.	Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.	Under Sec. 4, Reg. 12, of 1816.	Under Sec. 18, Reg. 5, of 1822.
–	–	–	–	–	–	–	–	–	–
7	–	–	–	7	–	–	–	7	–
–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–
1	3	6	13	4	4	18	4	4	5
8	3	6	13	11	4	18	4	11	5
1	2	1	2	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–
2	1	–	–	2	1	–	–	2	1
–	–	–	–	–	–	–	–	–	–
8	–	8	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–
11	3	9	2	2	1	–	–	2	1
49	–	16	–	35	–	3	–	32	–
–	–	–	–	–	–	–	–	–	–
5	9	3	16	4	17	–	–	4	17
–	–	–	–	–	–	–	–	–	–
1	3	–	1	3	3	–	1	3	2
–	1	2	–	3	3	1	–	3	4
55	13	21	17	45	23	4	1	42	23
–	–	–	–	–	–	–	–	–	–
59	17	–	6	59	11	–	4	59	7
59	17	–	6	59	11	–	4	59	7
133	36	36	38	117	39	22	9	114	36

E. E. p[illegible]

(signed) *A. D. Campbell*, Register.

Appendix, No. 2.

Papers relative to Measures recommended by the Home Authorities in 1814, &c.

EXTRACT from the MINUTES of CONSULTATION, under date 9 February 1830.

READ Letter from the Register to the Court of Sudder Adawlut, dated 23 April 1829.

The proceedings which accompanied the foregoing Letter have been prepared in consequence of an application from the Supreme Government, under date the 11th May 1826, for information as to the practical operation of the changes made of late years in the system for the administration of justice and police under this presidency.

A Copy of the Letter from the Supreme Government of the date above mentioned was forwarded to the court of Sudder Adawlut, on the 6th of the following month (June 1826), and the attention of the court was drawn to that communication on the 13th May 1828. In their register's letter of the 18th August 1828, the court explained the causes of the delay in furnishing the report required by the Supreme Government, and in the 3d and 4th paragraphs of the Proceedings now under consideration, these causes are again noticed. The subject is one of considerable importance, involving the examination of a great mass of statements and reports, and requiring a deliberate consideration of their contents. The Right honourable the Governor in Council, therefore, considers the delay in submitting the proceedings under review to be satisfactorily accounted for.

Para. 5 to 41.

The Sudder Adawlut, in the paragraphs noted in the margin, give an abstract of the reports of the local officers on the subject of the village moonsiffs, and then state their own conclusions. It appears to the Right honourable the Governor in Council that those conclusions are somewhat more unfavourable to the institution than is warranted by the grounds on which they rest. The judges state that "on the whole it seems pretty clear that the objects contemplated in the establishment of the village tribunals have been but imperfectly accomplished." Now it is to be remembered that the objects for which village moonsiffs and those for which district moonsiffs were appointed were the same. It certainly never was expected that those objects would be accomplished by the village moonsiffs alone, otherwise than very imperfectly. If this institution, without producing any evils, or without producing evils of such magnitude as to counterbalance the benefit, has contributed in any degree to the accomplishment of those objects, it must be regarded as so far attended with success. It is certainly to be regretted that the village moonsiffs are in general so uninstructed as they appear to be. It seems also to be established that a preference is generally given by suitors to the district moonsiffs. This appears to the Government to be just what was to be wished; but the number of suits tried by the village moonsiffs clearly shows that the preference, though general, is by no means universal; and the importance of the work actually done by the village moonsiffs is perhaps underrated by the Sudder Adawlut. The decision of four thousand suits every year seems not so very trifling a matter as they regard it; nor does a comparison even with the vast annual number of decisions by the district moonsiffs, exceeding fifty thousand, sink it in the estimation of Government, as it does in the minds of the judges, into utter insignificance. The Right honourable the Governor in Council still thinks it no small advantage to have four thousand suits annually decided in a mode which, as regards those suits, is preferred by the suitors to any which they could have recourse to if there were no village moonsiffs. That the number of village moonsiffs who never exercise their functions is much greater than that of those who do, ought not, in the opinion of Government, to be regretted in instances where they are unfit for the office, or to be considered as detracting from the utility which there is ground to ascribe to the institution in cases where parties properly qualified willingly undertake the office. There seems reason to believe that the persons best qualified to perform the duty are those who alone are generally resorted to as village judges; and this is precisely what was to be desired.

It should be remembered, that though a general preference is shown to the district moonsiffs, the extent of this preference is by no means in proportion to the whole number of causes brought before those officers and the village moonsiffs respectively; for the greater part of those causes were, from the value of the matter in dispute, beyond the jurisdiction of the latter class of judicatories. It appears that in the years 1825, 1826 and 1827, the number of suits decided by the village moonsiffs was 14,457; and the number of suits cognizable by the village moonsiffs, which were decided by district moonsiffs, was 44,768. The former number is nearly one-third of the latter; and even in the three divisions in which fewest causes were decided by the village moonsiffs, the number of their decisions was to that of the decisions of the district moonsiffs, in cases cognizable by both tribunals, nearly as one to four. These proportions appear to the Government to be very considerable.

But the number of reported decisions by the village moonsiffs is not the only circumstance to be looked to in estimating the utility of the institution. If, as there seems reason to believe, the possession of the judicial authority vested in them by Government has raised the respectability of their situation as heads of villages in the eyes of the people, and has introduced the practice of their adjusting disputes between the villagers, and composing their differences before they have arisen into regular law-suits, the good which it does in this way may be much greater than that which attends the decision of the suits entered in the returns.

On

Appendix, No. 2.

Enclosure referred to in Letter from the *Bengal* Government, 15 June 1830.

On the whole, although there is not perhaps reason to think very highly of the village moonsiffs, in their present condition, as instruments for administering justice, and although they may never become a very good body of judges, the Right honourable the Governor in Council cannot but regard the information furnished by the Sudder Adawlut as warranting conclusions much more favourable to the institution than those which they have drawn from it, and the statements of the local officers, as showing that the village tribunals are of advantage to the country. The absence of complaints against their integrity is indeed very remarkable and highly creditable to them, and every single suit thus honestly settled is a great gain to the little community where it takes place.

The extraordinary delay in the disposal of certain causes before the village moonsiffs, which is noticed in the 41st paragraph of the proceedings under consideration, appears to require explanation, and the Sudder Adawlut will be pleased to call for it, and submit it for the information of Government.

Every object contemplated in the appointment of district moonsiffs is justly considered by the Sudder Adawlut to have been fully attained; and with reference to the remark of the judges in the 47th paragraph of their Proceedings, that it is impossible to estimate the extent of the relief which they have afforded to the zillah courts, as it is probable that many of the causes which have appeared on their files would never have been referred for judicial determination at all, had the district tribunals not existed, the Right honourable the Governor General in Council would observe, that although no relief may on these cases have been afforded to the zillah courts, the benefit done to the country is not less manifest in the administration of justice where formerly it was not administered at all.

With regard to punchayets, the Right honourable the Governor in Council is disposed to concur in the opinion of the judges, that this mode of settling differences is held in little estimation with the great mass of the people; but as arbitration has every where the advantages which in the 49th paragraph of the court's Proceedings are ascribed to it in these territories, it does not appear why parties should not resort to it rather than go to law in this more than in any other country.

In the 58th and following paragraphs, the Sudder Adawlut have submitted observations on various points connected with the management of the police, and the administration of criminal justice under the present system, and upon the whole have come to the conclusion "that the police possesses but a small portion of the efficiency which its transfer to the collectors was intended to secure;" but they admit that "under the present system of magistracy the punishment of offenders is attended with infinitely less difficulty and inconvenience to the parties injured" than formerly, and that the enlargement of the powers of the criminal judges has been attended with all the advantages expected from it, and has operated very materially to promote the general administration of criminal justice.

Para. 100.
Para. 96.
Para. 78.

The Right honourable the Governor in Council is anxious that the judges of the Sudder and Foujdaree Adawlut should have this important subject fully under their consideration, and where the present system admits of and urgently requires amendment, that they may at an early period submit their sentiments as to the specific remedies which should be applied to the existing evils, and it will then be for the Government, after mature deliberation, to recommend to the honourable the Court of Directors, the adoption of such of them as in their opinion may be best calculated to ensure the effectual superintendence and control of the police, and to improve the administration of criminal justice.

Judicial Department,
15th June 1830.

(3.)—COPY of a LETTER from the Court of Directors to the *Madras* Government, dated the 11th April 1826.

(3.) Letter to the *Madras* Government, 11 Apr. 1826.

Para. 1. OUR last Letter to you in this department was dated the 4th instant.

2. In our Revenue Despatch of the 18th August 1824, we intimated our intention of communicating to you our sentiments on the abolition of Zillah Courts under your presidency, a subject which we deemed of the highest importance; we stated that we felt the necessity of great caution in reducing the number of tribunals, and that we thought it necessary, at our earliest notice of the measures referred to, to apprise you that we should require the fullest assurance, that in those instances in which you had incorporated two original jurisdictions into one, the natives were not prevented by the great extension of the jurisdiction of the new courts from procuring justice in those courts.

Abolition of Zillah Courts.

3. In pursuance of the intention so expressed, we now proceed to reply to the paragraphs noticed in the margin.

Letter, 4 Jan. 1822, para. 62.
ditto 3 „ 1823, „ 31.
ditto 31 Dec. 1823, „ 13.
also,
ditto 11 Mar. 1820, „ 101.

4. We remark that at various times, from the 9th February 1821 to the 7th March 1823, the zillah courts at the several stations of Ganjam, Vizagapatam, Rajahmundry, Verdachellum,

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Papers relative to Measures recommended by the Home Authorities in 1814, &c.

chellum, Coimbatore, Trichinopoly, Tinnevelly, and North Malabar, were abolished; that the zillah court of Guntoor, which was abolished in May 1818, has not been restored as was proposed; that in lieu of the courts of Ganjam and Vizagapatam, one new court was established at Chicacole, and that the jurisdictions of the others were added to those of Nellore, Masulipatam, Chingleput, Salem, Combaconum, Madura and South Malabar respectively.

5. The superficial extent of these districts is not accurately known to us, but their population, according to your latest Returns, are as follows:—

FORMER ZILLAHS.	POPULATION.	UNITED ZILLAHS.	POPULATION.
Guntoor Nellore	454,754 439,467	Nellore	894,221
Rajahmundry Masulipatam	738,308 529,849	Masulipatam	1,268,157
Verdachellum Chingleput	455,020 363,129	Chingleput	818,149
Coimbatore Salem	638,139 1,075,985	Salem	1,714,184
Trichinopoly Combaconum	481,292 901,353	Combaconum	1,482,645
Tinnevelly Madura (including Sheragunge.)	564,957 788,196	Madura	1,353,153
North Malabar South Malabar	Not known Not known	Malabar	907,575
Ganjam Vizagapatam	Not known (say, 350,000) 772,570	Chicacole	(say, 1,122,570)
		TOTAL	9,460,654

6. From the Governor's Minute, recorded on the Consultations of the 9th February 1821, it appears that certain improvements in the Revenue department having been resolved on, it was deemed expedient to provide for them by abolishing some of the zillah courts which had least business, and paying the newly appointed officers out of the savings resulting from the measure. In the same Minute the following passage occurs: "I should have regarded as an idle waste of public money the keeping up of a court, when the reduction of its business enabled us to do it away, without the smallest inconvenience to the country." And in a Minute recorded on the Consultations of the 16th March 1821, speaking of the institution of district moonsiffs, Sir Thomas Munro says, "The extension of its jurisdiction will, by relieving the zillah judge from a great portion of his present business, enable us to enlarge the zillahs, and to lessen the judicial expenditure." In another passage in the Minute first quoted, the objections which it was supposed might be advanced were thus answered: "It may be objected to the proposed measure, that the enlargement of the zillahs will throw too much business upon the zillah judge, and will cause considerable inconvenience to parties and witnesses by increasing the distance of the court from their homes; but in answer to this, it may be said that the distance will not be more than it is at present in several of the more extensive zillahs; that the business will not be more than it now is in the more populous zillahs; that the civil business is every day diminishing, and will still be greatly diminished, by extending the jurisdiction of the district moonsiffs, by which more time will be left for attending to the despatch of criminal business, and that the proceedings of the circuit judges will be much facilitated by having fewer stations to visit."

7. Before measures of such extreme importance were decided on, we think that the local and superior judicial officers should have been required to report their opinion of the probable results which would be produced by uniting adjacent zillahs. No such inquiry however was made: it was stated that the business was much diminished, and that it would be diminished still more; and on the general views contained in the Governor's Minute, courts, the jurisdiction of which was before confined to a tract of country containing a population of between five and six millions, have been charged with a population of between nine and ten millions, spread over a surface more extensive by many thousand square miles than that which formerly belonged to them.

8. We cannot recognize the propriety of considering the question of retaining or abolishing any of the zillah courts, in connexion with the proposed alterations in the Revenue department. The salaries and official rank of the judges and judicial officers may reasonably be fixed with some reference to other departments, but the existence of a court

in

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(3.) Letter to the *Madras* Government, 11 Apr. 1826.

in any particular district ought to depend solely upon its necessity or expedience for the due administration of justice. The existence of zillah courts, as the principal part of the judiciary establishments at all the presidencies, is a proof that the utility of such courts is recognized by the highest authorities to which British India is subject; and with reference to the presidency of Madras especially, we observe that a certain number of courts of this description was declared by the late judicial commission, in their Report of 15th October 1815, to be not only salutary and useful, but even indispensably necessary.

9. At different times Petitions have been presented by great numbers of the natives (from Nellore, Guntoor, Rajahmundry, Masulipatam, and Tellicherry, and other places in Malabar,) deprecating the removal of the zillah courts, and the notion of their utility is confirmed by the reports of the local officers and of the superior courts. The following extract from the proceedings of the provincial court, in the Western Division, dated 30th May 1823, contains an account of the petitions which were presented on the occasion of the zillah court of North Malabar being abolished:

"Read a Petition presented by certain of the principal merchants and other residents of Tellicherry, and many of the inhabitants of the Kartinaad, Cherikal, Kavay, and Koteyam Talooks, wherein, after adverting to the former Petition of the merchants of Tellicherry, which set forth the grievous consequences that would ensue from the two zillahs of Malabar being consolidated, and the station of the zillah court fixed at Calicut, they proceed at considerable length to notice the extreme hardships, inconvenience and loss to which the whole community of the Northern Division must be exposed by the absence of those tribunals of civil and criminal justice, which have hitherto always existed at Tellicherry, and the inadequacy of the moonsiffs' courts for the wants of the country." A corresponding Petition was afterwards presented to the Government, in which the Petitioners say that their former application was signed by all the principal persons of each caste residing at Tellicherry and the other places mentioned. To the Petition from Masulipatam were attached upwards of 1,700 signatures, each having a description of the person signing, under various designations of merchants, bankers, tradesmen, zemindars, potails, curnums, gomastahs, including relations of nabobs, and the nabob of Masulipatam. The collector of the district referring to this Petition says, he was on the spot when the question regarding the removal of the court was agitated, and he knew the sensation that it excited.

10. The great extent of the zillahs was complained of in our Despatch of the 29th of April 1814, as one of the evils attendant on the judicial system, and notwithstanding the relief which has been afforded to the zillah judges by the Regulations of 1816, and those of subsequent years, we regret to observe that abundant proof of the miserable consequences of zillahs being too extensive is to be found on your Consultations.

11. The following remarks of the Foujdarry Adawlut, on a report of one of the judges of circuit, relate to a district in which a zillah court was abolished several years ago. "The third judge adverts to the hardships to which the inhabitants of the northern parts of Canara are exposed from the distance of the seat of the zillah court, and in the concluding part of the paragraph, declares his firm conviction 'that many crimes are committed which do not come to light, from having been compounded between the parties or concealed altogether, through the dread of the inconvenience and loss consequent on a public prosecution.' The court of Foujdarry Adawlut consider the observations recorded by the third judge in this part of the report to be particularly deserving of the attention of Government. It is obvious to remark, that the remoteness of the zillah criminal court must operate as an impediment to the administration of criminal justice, tending, as remarked by the third judge, to the impunity, and of course the consequent increase of crimes, to the general vexation of the community, and to the serious injury of the accused in cases of acquittal. The report of prisoners received on the 13th ultimo from the acting criminal judge in the zillah of Canara, affords instances of delay and individual hardship in the prosecution of criminal cases arising from the situation of the zillah court. In eleven cases, comprising 34 prisoners, it is stated that the court is awaiting the arrival of witnesses who, 'owing to the district where they reside being distant 200 miles, have not yet reached the zillah station;' and, in another case similarly postponed, the distance of the residence of the witnesses is stated to be 260 miles."

12. With reference to this same district, and to the province of Malabar, many remarks corresponding with the above are contained in Mr. Græmes' Report on Malabar; from these we extract the following: "Both in Canara and in Malabar, robberies and thefts are carried on to a very great extent, but the distance of the magistrates' and criminal judges' courts are much too often an insurmountable obstacle to redress. The hardship to which parties must be subjected before they can prosecute robberies and thefts to conviction, deter them from complaint. If the crime is of an aggravated nature, which requires to be brought before the criminal court, there are many who must travel from three to six hundred miles, and lose a month on the journey, and another in the inquiry, before they can run the gauntlet of the magistrates, the criminal judges and the circuit courts, not to mention that the occasional postponement of trials at the circuit court, from the non-attendance of any material witness, from neglect or sickness, may oblige the parties to attend a second time at that court, who may be residing at a distance of a hundred and fifty miles. Attendance on the courts in civil causes is also productive of serious inconveniences, and it is difficult to calculate their effects upon the profit of agriculture, commerce, and the other various pursuits of life. They are considered as vexatious in the extreme."

 13. When

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13. When this Report was written, there were two zillah courts in Malabar, now there is but one.

14. The following extracts from a late Report of a judge of circuit in the Northern Division, refer especially to two of the recently consolidated zillahs, which were formerly divided into four:

"The annexed Statement will show the number of cases submitted to the court of circuit in the zillahs of Nellore and Chicacole. The first contains thirty-one, and the other forty-three. When the magnitude of the district over which the courts have jurisdiction is considered, the numbers may appear insignificant, but this circumstance cannot be taken as a criterion either of the efficiency of the police or of the diminution of crime. Many cases escape their utmost vigilance, and many are never brought to their notice by the suffering party, who would rather submit to the first loss than undergo the further loss of time and labour which a journey to the court in search of redress would subject him to. A ryot residing at the extremity of either of the above districts would be obliged to travel 400 miles to and from the court, and if the case were committed for trial before the court of circuit, double the distance. He knows the batta allowed him is inadequate to his expenses; he knows he must be a long time absent from his family; that in the mean time his farm will be neglected, and that the collector will press him if his kist be not paid; he, therefore, does not complain. I was told on the last circuit by a very intelligent native, that many cases had occurred wherein property had been discovered, and the owners of it known, but who denied that it belonged to them, because they dreaded the length of the journey to the court. If the great distance should deter an injured person from seeking redress, who has some motive for bringing offenders to punishment, it must press much harder on those who are compelled to attend the court as witnesses. They have nothing to gain, and are exposed to all the loss and inconvenience I have above enumerated. The consequence is, that they frequently not only withhold the information in their power, but obstinately plead ignorance of the transaction; this becomes soon known to the different gangs of plunderers who extend their depredations, convinced of the little risk they run of being punished. In No. 1, of the Chicacole Calendar, 129 ryots made three different journeys from Aska and Goomsoor to the zillah court; the total of which, at a very moderate compensation, would amount to nearly 1,000 miles."

15. In the correspondence respecting the zillah court of Guntoor, which was abolished in 1808, restored in 1814, again abolished in 1818, and recommended to be again restored, the extreme inconvenience suffered by the people from the distance of the zillah court from their homes was repeatedly brought to the notice of Government by the collector, the Board of Revenue, and the Foujdarry Adawlut. Similar representations were made to the Government in 1822 and 1823, by the magistrate of the district, and by the circuit judges.

16. The extension of the jurisdiction of the district moonsiffs (under Regulation II. of 1821,) will doubtless send to the moonsiffs' courts, in the first instance, some suits which must otherwise have gone first to the zillah judge. But we conceive that in proportion as this measure may diminish the business of the zillah judge, it will add to the importance of his court, as the only available resource against the evils of undue partiality or error in the decisions of the inferior courts. It was indeed observed by the judicial commissioners in their Report dated 15th October 1818, that, "if not a single suit were to come before the zillah courts, they would still be of most essential use to the country as courts of appeal and criminal courts, and still more perhaps by the salutary check which they would maintain over the district and village moonsiffs, by which they would compel them to perform properly those subordinate judicial duties which can by no other agents be so conveniently discharged."

17. Although by the extension of the register's jurisdiction from cases of 500 rupees to those of 1,000, a further relief appears to be given to the zillah judges, it is to be observed that cases of this description were not numerous. The whole of the original suits decided by the zillah judges in 1820, amounted to no more than 977, in which the value of the property disposed of was Rupees 6,16,290; the average of the suits, therefore, must have been about Rupees 641; and as the jurisdiction of the judges extended as far as Rupees 5,000, it is plain that there must have been among the 977 suits, many of a value below 500 rupees. But, whatever their numbers might have been, the remainder certainly did not occupy much of the judges' time, for on referring to a return of the original suits decided on trial, (excluding those settled by razeenamah, or dismissed for default,) it is seen, that in the said year, 18 of the 20 zillah judges decided fewer suits than five in a month, and 10 of these decided fewer than two in a month. An examination of the returns of other years will give a similar result of the suits instituted in a zillah court; the judge reserves but few to himself, the rest he refers to the register and sudder ameens; and the time devoted by him to the trial of causes, inconsiderable as it was, might no doubt at any time have been still further reduced by referring more of those suits. It may be inferred that most of the suits brought into the zillah courts might, if the applicants had thought fit, have been taken at once to the district moonsiffs, for although the jurisdiction of these officers extended to suits of the value of 200 rupees, and has latterly been enlarged to those of 500, the average amount of the suits instituted in the zillah courts scarcely exceeds Rupees 175, and of these more than two-thirds, the average amount of which is about 65 rupees, are referred to the sudder ameens. The abolition of a zillah court carries with it of course the abolition of the courts of the register and sudder ameens.

18. The

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18. The persons who suffer directly from the business of these tribunals being increased, or from the station of them being removed farther from their homes, are, in criminal matters, those who as parties or witnesses must attend the criminal judge at his station, whether in cases subject to his own cognizance, or in those belonging to the court of circuit: the former including all cases in which the offender may, in the estimation of the magistrate and his subordinates, be deserving of more severe punishment than they are authorised to inflict; the latter, those in which the offender is to be tried by the court of circuit, and those in which the court have required the attendance of individuals, whether on investigation of matters connected with cases of persons punished or discharged by the magistrates, or on account of other business, regarding which application may have been made to the court.

19. In the department of civil justice, the persons who suffer directly are those who are obliged to resort to the courts of the sudder ameen, register or zillah judge, whether as applicants, defendants or witnesses, and those who (not being compelled to go in person) have the alternative of employing vakeels or other agents. The suitors in many cases, and the witnesses in almost all, must attend personally in original suits in which the property sued for is from 500 to 5,000 rupees value, in appeals or complaints against the decisions of village moonsiffs, district moonsiffs, village punchayets, district punchayets, sudder ameens, and registers, in all applications for enforcing decrees passed by the zillah judge, register or sudder ameen, in all miscellaneous petitions, in all pauper cases where the amount sued for exceeds 10 rupees value of personal property, in all pauper cases whatever of real property, and in those cases in which the plaintiff has chosen to make his application to the zillah judge in preference to any other competent authority; in criminal cases the attendants on the courts may not be so numerous as they would have been under the old Regulations, but in civil cases their numbers must be very great. In the last seven years more than 60,000 suits, original and appealed, have been disposed of in the courts of the zillah judges, registers, and sudder ameens. Of the total number of miscellaneous petitions presented to the zillah judges, we have no information; but we know that in one zillah 588 of them were presented in six months; in another, 782; in another, 1,037. The proceedings to which these references give rise must in many cases be important, and must require the attendance of many individuals.

20. Besides the direct operation of this measure upon individuals, it is a severe hardship on the members of a great community to be deprived of the protection of their chief established court of justice, and to be made over to another court which is, perhaps, from 50 to 100 miles farther from the homes of many of them, and already charged with a jurisdiction of several thousand square miles, and a population of half a million of souls. When, in consequence of a change like this, access to justice becomes very difficult, crimes are winked at or compromised, prosecutions are prevented, information is suppressed, and acts of fraud and violence, scarcely less terrible to the community in their commission than in their discovery and its consequences, must necessarily increase, although the Government may not be aware of the sufferings of the people.

21. Nor is the usefulness of the courts to be measured by mere files of cases; it can only be estimated from the effects they produce, by the silent and unseen operation of the law which they are believed to administer. The number of suits in a district may be diminished, and the necessity of a court for the protection of the people be more urgent than ever. The mere presence of an effective court of justice places a restraint upon the evil dispositions of men. Remove that restraint, and all sorts of bad passions and propensities, the fertile sources of violence and fraud, of crimes and of law-suits, are let loose upon the community, and generate disorder to an extent far beyond the reach of calculation. It is for the prevention of such disorder that courts are instituted; and every new cause of grievance existing in a country is an additional reason for making justice more accessible to the people, for multiplying and improving courts, certainly not for destroying them.

22. The importance of zillah courts as a salutary check upon the village and district moonsiffs was, as has already been remarked, recognised by the late Judicial Commission, in their Report of 15th October 1818. The village moonsiffs, who are appointed without selection, and are judges only because they are collectors of revenue, receive and decide suits of small amount without appeal, and without recording the evidence: they are subject to great temptations, which too many of their class are unable to resist; they are vested with much uncontrolled power in the criminal as well as in the civil department; and, their numbers being estimated at 50,000, they may practise injustice very extensively. The fear of exposure and of prosecution in the zillah court must serve as a useful check upon them, and their opportunities of abusing their power must be materially increased by the abolition of those courts. The presence of a zillah court is also of great importance for superintending the district moonsiffs. It has been before remarked that in 1821 Government extended their jurisdiction from 200 to 500 rupees. As a ground for this measure, the propriety of their proceedings was asserted; it was said that they had decided a great number of suits, and that very few appeals had been made against their decisions. We find that in 1820 the district moonsiffs decided 45,584 suits. In the same year, 837 appeals were instituted against their decisions. That is at the rate of one appeal for 53 $\frac{123}{837}$ suits decided. But this view is delusive. A small proportion of appeals affords no adequate test of the goodness of the original decisions: 1st. Because many suitors who have a right of appeal are precluded by expense and other obstacles from using it; and, 2d. Because a vast number of the suits which come before the district moonsiffs are absolutely excluded from appeal. In 1820, there

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there were instituted before the district moonsiffs 45,815 suits; in which the property litigated amounted to R^{s} 13,60,465, the average being only R^{s} 29 $\frac{31 \cdot 830}{45 \cdot 815}$, although their jurisdiction extended as far as 200. Hence it is evident that a large proportion of the suits must have been for property not exceeding 20 rupees value, and such suits are by the Regulations not appealable. Referring, however, to the number of their decisions in cases above 20 rupees, which are reversed in appeal, it may be apprehended that their proceedings are defective, and if such be the character of the controlled part of their proceedings, it is to be feared that the uncontrolled part may be much worse. The mass of the litigation of the country is in their hands. In seven years from the time of their institution they have decided above 370,000 suits, the chief part of which must have been for property of small amount. When men are permitted to exercise such extensive judicial functions without appeal, without recording the evidence, and in the absence of every effective security of publicity or superintendence of whatever description, it is evident that every obstacle opposed to appeals from their decisions and to the complaints of persons aggrieved by their negligence or misconduct, serves to encourage such misconduct, and to debase their proceedings; and it is of the utmost consequence, therefore, for the superintendence and control of the district moonsiffs, that the efficiency of the zillah courts should be maintained.

23. The revenue officers under the Madras Government are vested with very extensive unchecked authority in the department of the magistracy, including a considerable part of the administration of the penal law. They alone are competent to receive criminal charges against natives in the first instance, and many of their proceedings are unrecorded and exempt from control. Acts of great atrocity may be practised by the native officers, and the proceedings of magistrates and assistants may be arbitrary and injurious, without any probability of their authors being called to account. Instances of such misconduct may be occasionally brought to light, and orders suited to the occasion may, in consequence, be given. But it is essential to good government that the people should not be left to a casual and uncertain protection. Against a power so dangerous, and so liable to abuse, the best attainable safeguards should be established. The only way in which any abuse of power on the part of the officers of police can be subjected to exposure, and the evidence of their misconduct placed on record, is by a civil action in the zillah court, unless the party aggrieved should submit his complaint to the magistrate, who has the power of inflicting a punishment in such cases, under Regulation XI. of 1816, section 44.

24. He who can exercise any sort of uncontrolled authority, however small its amount may be in any particular case, if he can inflict one stripe, or one day's imprisonment, or fine one rupee, without being accountable for his proceedings, has in effect a power almost despotic over those persons who are subject to him. Moreover, the exclusive privilege of receiving criminal charges carries with it a power not less dangerous than that of inflicting punishment; namely, a power to exempt individuals from the penalties of the law.

25. The abolition of zillah courts increases the probability of abuse, not only by removing to a distance those tribunals, which by their power to award damages to the injured parties must have afforded some check upon the illegal acts of the officers of police, but also by extending the degree of oppression, which, in the exercise of their lawful authority, those officers are enabled to inflict; an illustration of this remark may be seen in a report made to Government by the Foujdarry Adawlut, when the Rajahmundry court was abolished. The Foujdarry Adawlut objected to the removal of the prisoners from Rajahmundry to Masulipatam, on the ground of the opinion of a medical officer, which was as follows: "It is an incontrovertible fact that persons of whatever description being suddenly removed from the vicinity of the hills to a coast situation, would be very generally attacked with fever, flux or dropsy, either of which complaints must be considered as threatening to life." The report concluded as follows: "This medical opinion, corroborated as it is by the experience of the court of Foujdarry Adawlut on the occasion referred to in my letter of the 5th ultimo, induces the judges respectfully to bring under the notice of the honourable the Governor in Council, the situation of those persons who are now sent by the police officers from the hilly parts of Rajahmundry, to the criminal judge at Masulipatam. When the cases of such persons may be disposed of by the criminal judge, their imprisonment at Masulipatam may frequently be tantamount to a sentence of death, while the shortness of the term would render their removal to the nearest inland zillah station a severe aggravation of their punishment; and in cases of commitment for trial before the court of quarterly sessions, the lives of many may be forfeited before they are convicted of any crimes." The power thus indirectly vested in these officers seems sufficient to subject the whole community to their will; although the full extent to which this power is exercised is not known to us, remarkable instances of it are sometimes brought to our notice. "I perfectly recollect (says a circuit judge) a case transmitted to Masulipatam by the police officer at Toonypyharenpettah, a distance of 200 miles, wherein two cultivators were actually taken from their plough to attest confessions made in the presence of a number of Brahmins, and others who had interest enough to escape the journey."

26. The urgent necessity which exists for providing some efficient protection to the people against the police officers, may be seen from many of the reports of the judges of circuit, and of the Foujdarry Adawlut. From one of the former we have extracted the following statement: "Most of the acquittals were of persons against whom there was no direct or circumstantial evidence, or any other than their alleged confessions before the police officers; and those either not attested according to law, or, I regret to say, obtained by means the most unjustifiable. One prisoner still bore on his person marks of great violence he had received

received from the peschar of Kulleah; another had died since his committal, who, there was every reason to suppose, had met with similar ill-treatment, and both had been kept in confinement for a period of nearly three months before being forwarded to the criminal judge.

"Of the two prisoners in the two cases of highway robbery accompanied with violence, one had died, and the other was acquitted in consequence of his confessional declaration having been extorted by violence, and in the absence of any collateral evidence whatever in support of the allegations contained in that document.

"In three of the cases of theft containing ten prisoners, the only evidence forthcoming was also their alleged confessions before the police officer, but which had been so irregularly taken, as to be undeserving of the smallest weight against the prisoners, who were released accordingly. One of these confessional declarations contained two examinations; in the *first* of which, the prisoner denied the charge; in the *second*, he appears to have acknowledged his guilt; but the former only bore the signature of the attesting witnesses, one of whom had died, and the other in his evidence before the court declared he was not present during either of those examinations." On these cases the remarks of the Foujdarry Adawlut were as follows: "The endeavours of the court of Foujdarry Adawlut have long been faithfully directed to the enforcement of the provision contained in section 27, Regulation XI. of 1816, which requires that prisoners shall be forwarded by the heads of district police to the criminal judge within 48 hours, if possible. The practice which the court regret to find still universally prevalent, of detaining persons in custody for weeks, and even months, before their transmission to the criminal court, offers opportunity, which might not otherwise be found, of resorting to the atrocious abuses of authority here referred to; and the court of Foujdarry Adawlut do not see any probability of an amelioration of the conduct of the police officers in these respects, unless the exertions of the magistrates are more strenuously directed to the enforcement of the provisions of the law, and abuses of authority, when discovered, are invariably visited with adequate punishment. In the case to which the third judge more particularly refers in paragraph 10, the court of Foujdarry Adawlut are of opinion, that the peshcar and his abettors should have been brought to trial before the court of circuit, under the provisions of Regulation III. of 1819."

27. In another Circuit Report, the judge, after remarking on the execution of a police officer for murdering a man in endeavouring to extort from him a confession of robbery, says: "At the late sessions, in cases of confessions alleged to have been given before the police officers, there was scarcely one in which the prisoners did not declare that they had been beaten and compelled to confess; and in several cases there appeared too much reason to believe that compulsion had actually been used for the purpose alluded to." From the proceedings of the Foujdarry Adawlut on many cases brought to their notice by the judges of circuit, it is apparent that abuses like these are very general. Their remarks on one of the Reports are as follows: "It is manifest, as was observed by the third judge, on his reference of the case alluded to in this part of the Report, that the inadequate supply of food may be made the means of extorting confession; and cases have been brought before the court, in which there is too much reason to believe that such had been the fact. The court would willingly hope that the instances of such flagrant abuse of power on the part of native officers are very rare; but they deem it proper to call the attention of the magistrates generally to the importance of taking the most effectual measures for ascertaining that prisoners, who, by the periodical reports laid before the court of Foujdarry Adawlut, are shown to be universally detained in the custody of these officers for weeks, and even months, previously to their transmission to the criminal judge, are adequately supplied with food; and, in order to this, it is manifestly necessary that the falsification of dates of apprehension should by the most vigorous measures be suppressed; since, when the time of a prisoner's detention is incorrectly reported, correct returns of the allowance for his subsistence must be out of the question."

28. It is also stated by the Foujdarry Adawlut that the imposition of false dates of apprehension and examination upon the criminal courts by the native heads of police has become a general practice, and that the attention of the magistrates has in vain been directed by circular orders and orders on particular cases to the necessity of using every means in their power for its suppression. On another occasion the Foujdarry Adawlut advert to the leniency of the magistrates towards native police officers in cases of misconduct, even when frequently repeated by the same officer: and they add, "its effects are universally perceptible." In a Circuit Report before quoted, the frequency of abuses by native officers of police and some of peculiar atrocity are noticed as follows:

"The case of severe ill-treatment (N° 10) was fully brought home to the prisoners. They were both men of property and consideration, and one of them was the potail of that part of the country. They were both sentenced to two years' imprisonment and hard labour, and to pay a fine of 200 rupees each; and on failure thereof, to two years' further imprisonment. The case was as follows: The prosecutor, Dassoo, was attending a fair at the Sooral Devastan, when he was taken up by the tehsildar's orders, on suspicion of being implicated in four robberies, recently committed in the Barkoor Talook; but protesting his innocence, he was made over to the potail, with orders to take him with him, and endeavour to make him confess. Dassoo was accordingly taken to the potail's place of abode, and there detained eight days; during which every species of torture familiar to the natives of Canara was resorted to; but Dassoo persisted in his innocence, and at length was sent back to the tehsildar, who, after detaining him a period of 20 days, forwarded him to the criminal judge.

"The following extract from the Report of the zillah surgeon will give a correct idea of what this unfortunate man's condition was on his arrival at the zillah station, and of the irreparable injury he had sustained in his person. He says Dassoo was admitted into the hospital on the 16th May 1822, with two very deep, foul and extensive ulcers on his wrists and hands, and a great many smaller ones extending from the wrists to near the shoulders in a spiral direction, attended with high inflammatory symptoms; he had also a good deal of fever about him, caused by the acute pain he suffered from the state of the ulcers, and also complained of severe pain in his lower extremities from bruises which he had received. On inquiry into how the ulcers were caused, he stated that his wrists were placed between two pieces of wood, which were repeatedly squeezed together with great force, and that a rough rope, charged with powdered chillies and mustard seed, and moistened with a solution of salt, was very tightly bound round his arms, and which were kept on until his arms had swollen to about four times their natural size; and that, after the ropes were taken off, the ulcers broke out in the state I then saw them. He remained under my charge from the above date throughout the month of June, and until the 5th of July, during which period he suffered at times the most excruciating pain; and I was fearful at one time that amputation of the right fore-arm would have been necessary, from the deep-seated sloughing and great prostration of strength that took place; he, however, fortunately escaped the operation, and was discharged from the hospital in a crippled state, without any prospect of ever recovering the full use of his hands.

"The first judge has in his Report of his last circuit noticed six cases of torturing and using violence to extort confessions; and expressed his opinion, that it was a crime of too common occurrence in Canara, even on the part of the officers of Government, though extremely difficult to procure evidence for their conviction. The present case furnishes a striking example of the justice of these observations; and in my paragraph 10, I have mentioned that I had been obliged to punish five police officers for prevarication in their evidence, regarding some confession they had attested. As a proof of the difficulty in getting at the truth where police officers abuse their authority, one of these peons, in the course of his examination, stated, that though he had put his signature to the paper, in point of fact he was not present at the time the prisoner gave his deposition, nor did he know when it was taken; and that the peschar had threatened to dismiss him if he refused to sign it, and go and give his evidence before the court of circuit.

"I am concerned to report also that the employment of police peons as attesting witnesses, were not the only instances I had occasion to observe of the little regard paid by the head police officers to the orders passed from time to time for their guidance by the court of Foujdarry Adawlut.

"In the course of this Report, I have mentioned several instances of oppressions and irregularities on the part of the police officers, and especially the disregard shown by them to orders issued for their guidance by the court of Foujdarry Adawlut; there is not a sessions that the attention of the magistrate, both in Canara and Malabar, is not called to abuses of authority on the part of their servants; and it is not uncommon that the same police officer is the subject of the court's animadversions; all which I see no other mode of accounting for than in the leniency with which such aberrations of public duty are noticed by their immediate superiors." The torturing of prisoners for the purpose of extorting from them confessions of crimes appears to be common in Canara; it is spoken of by the Foujdarry Adawlut as an offence of acknowledged prevalence in that zillah. Extreme cruelties have been practised on prisoners in Malabar, as detailed in the following extract from a Report of one of the circuit judges. "The various acts of oppression and abuses of power similar to, and indeed, in many instances, equal in atrocity to the acts charged against the parbutty and kolkars of the wattun hobity which have come to light during the late circuit, as well in the course of the trials (one of which is the prosecution of the parbutty and kolkars of the zurooaangoor hobity in Koormnad Talook, for the murder of the nephew of a revenue defaulter,) as in the magistrates' and assistant magistrates' calendars of persons punished and discharged by them, show the prevalence of this practice to an extent as to call for the interference of the court of circuit, since there is hardly a case wherein the sufferers who have had courage or been in circumstances to enable them to complain against their oppressors have met with redress of their grievances, and the accused have not been sent back to the situations they have so greatly abused, and thereby encouraged to renew their excesses by the facility they experience in escaping justice. The charges set forth in these complaints are for seizing and carrying bound the inhabitants from their homes to the parbutty sherishtodar or other revenue officer, either at their houses or cutcherries, and there confining them in stocks without food, tying, by means of ropes, or the fibres of cocoa-nut trees, or of the adomba vine, their neck and feet together, and in this posture laying stones upon their backs, flogging, kicking, and beating them with their fists; making them stand in water or mud, exposed to the heat or the clemency of the weather; making them stand upon one leg, and in that position placing upon their heads a large log of wood; also breaking open their houses and carrying off and selling their property, and even slaves, without due proclamation being made thereof; and all these acts of torture and personal violence to exact payment of alleged revenue arrears, and in some instances of presents of money under the head of koore kallyanam and chitfanam, and alleged debts from one individual to another, without authority from any local tribunal. In most of these complaints, the judge on circuit has, after much labour, read through the magistrate's or his assistant's proceedings, and has been truly concerned to find that all, with hardly an exception,

exception, have been dismissed as not proved or groundless, although the evidence in most has been such as to leave not a doubt that considerable personal violence had been done by the parbutties and their kolkars to the complainants, and in most cases to an extent to require that the accused should have been sent to the criminal judge for him to try or to commit for trial before the court of circuit, according as the facts deposed before him might seem to render necessary."

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29. Although we are satisfied that considerable progress has been made by your Government in fixing and equalizing the rates of the public assessment, with the view of conferring upon the ryots a permanent interest in their lands; yet we are induced to draw your attention to the state of the people under the Madras presidency, as described by the Board of Revenue in their proceedings, dated 27th November 1820, in order that you may call upon the revenue authorities to show in what degree and to what part of your territories the opinion of the Board can still be considered to apply. In that Report the Board observe that they are assured, "not only from the reports from officers deputed to inquire into complaints in the provinces, but from other unquestionable sources of information, that the great body of the ryots is not in that state of ease and security in which the justice and policy of the British Government mean to place them. In general the ryots submit to oppression, and pay what is demanded from them by any person in power, rather than have recourse to the tedious, expensive and uncertain process of a law-suit; the cases in which they are sufferers are so numerous, various, intricate, and technical; they and their witnesses are so far from the seats of the courts of judicature; delays are so ruinous to them; they are so poor, so averse to forms, new institutions, and intricate modes of procedure; they are so timid and so simple a race, that it is necessary for the Government to endeavour to protect them by a summary and efficacious judicial process." This statement has produced on our minds a strong impression of disappointment and regret. The alterations which, in 1814, we directed to be made in the judicial system, were certainly intended to divest the judicature of all useless forms, charges, and other inconveniences to suitors and witnesses, and to bring justice to the doors of the people; but it seems that, up to the end of 1820, our endeavours to afford protection against oppression had not been successful.

30. The account given by the Board of Revenue appears to be confirmed to some extent, by the circumstances referred to in the Minutes of the Governor and Mr. Fullerton, respecting the affairs of Salem and Coimbatore; and from some of the results of the operation of the criminal law, as exhibited in the half-yearly reports of the Foujdarry Adawlut, to 30th June 1823, another confirmation of the account must, we fear, be inferred.

31. Having thus adverted to the very unfavourable representations which we have found on your records with respect to the practical operation of the judicial and police systems, as modified by the Regulations of 1816, and of subsequent years, and to the effects which are likely to result from the abolition of zillah courts, on the administration of civil and criminal justice, we have to call your attention to some suggestions which appear to us calculated to remove the inconveniences which have been experienced.

32. On Mr. Gregory's appointment to the new zillah of Chicacole, he represented to you, that the duties which would be thrown upon the zillah court would be so heavy as to create great delay in the decision of suits; and he suggested that two extra registers (besides the register stationed at the zillah court) should be attached to the new zillah, and placed at stations to the north and south of the zillah court station; you did not, however, think it expedient to enter into a consideration of Mr. Gregory's plan, but informed him that it was your intention to extend the jurisdiction of the sudder ameens and district moonsiffs, and in other respects to relieve the zillah judges from a part of the duties with which they were then charged.

33. We appreciate highly that part of the arrangement which, in his Minute of 22d January 1821, Sir Thomas Munro recommended for improving the efficiency of the revenue branch of the service, by employing principal and sub-collectors, increasing the rank and emoluments of the former class of functionaries, so as to secure their continuance in that line of the service, and affording them the aid of sub-collectors, with the view of enabling the experienced superior to attend more closely to the general affairs of his district, and of securing a regular succession of qualified revenue officers. We find that under this arrangement, six collectors have been promoted to the rank of principal collector, with allowances averaging in amount what is assigned to a second and to a third provincial judge, and that eight sub-collectors have been attached to the largest districts with salaries of Rupees 14,000 each per annum.

34. In the judicial branch of the service, the number of important situations still greatly exceeds that in the revenue branch; and it may be apprehended that the civil servants will still endeavour to procure employment in the judicial department; but as it may not be practicable to equalize the advantages in the two branches, we must be satisfied with such an arrangement as may secure a fair share of the general talent to be found in our civil service to both departments.

35. We fear that the efficiency of the zillah courts must have been greatly weakened by the large extension of their jurisdiction; and it is obvious that many of the evils and inconveniences which led us in 1814 to provide methods of obtaining justice without a resort to these courts, are greatly aggravated by the reduction of those courts in number. These evils might be removed by their entire abolition under some new arrangement for the

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administration of justice, or by a great increase in their number; but the intermediate course of leaving the jurisdiction, and weakening the judicatory, is precisely that which tends most to the difficulties and delays, and consequent denial of justice, which we deplored in 1814.

36. It is worthy of consideration, whether Mr. Gregory's suggestion may not be adopted, with the double view of bringing the European judicatory nearer to the homes of the people, and introducing a class of functionaries into the judicial department, similar to that appointed to the revenue department. It cannot be doubted that a system of training is as necessary in the one line of the service as in the other; and that a judicial officer may, under the directions of the zillah judge, be successfully employed in a district of moderate extent, and thus gradually qualify himself for the duties of the largest. It might therefore be proper that, in every large zillah, an assistant civil and criminal judge should be appointed, under such powers and such limitations as may be deemed advisable, and stationed at such part of the zillah as is most remote from the zillah court, or, on account of the natural difficulties of the country, is least under the control of the zillah judge. All vacancies in the zillah courts would be supplied from the list of assistant judges, and thus a regular succession of experienced functionaries would be secured in the judicial as well as revenue departments.

37. If you should see no practical objection to the adoption of this arrangement, you will afford the assistant judge every necessary facility for conducting the business of his court, by attaching to it an establishment of native judicial officers. These, in the first instance, would no doubt be supplied from the most deserving of the native officers, who have been deprived of employment by the reduction of the zillah courts in those parts of the country where assistant judges may be stationed; but we think that all future vacancies in the principal situations in the assistant judge's establishment should be supplied from the list of district moonsiffs in the zillah where the vacancy may occur. The rank of the assistant judge's principal native officers should be below that of the principal native officers of the zillah judge, and their allowances should range between those of the latter officers and those of the district moonsiffs; our object being to secure a regular line of promotion to the native as well as the European officers employed in the internal administration of the country, with a clear understanding, however, that meritorious conduct should alone entitle any individual to succeed to the superior situation.

38. Another mode has occurred to us of lessening the inconvenience which must arise from the reduction of the number of zillah courts. If the zillah judges, instead of holding their courts always at the sudder station, were to hold alternate sessions at different places within their zillahs, justice might be brought still nearer to the people than before the reduction of the courts. The judges would moreover be enabled to exercise a much more effectual control over the proceedings, and acquire a more intimate knowledge of the characters and conduct of the district moonsiffs than is possible while they remain stationary. It also occurs to us, that the judges might assemble the moonsiffs attached to the districts, included in the portion of the zillah in which the session is held, and that they might select one or more of the more respectable and intelligent members of that body to officiate in the character of ameens of the court during the continuance of the sessions, by which arrangement considerable inconvenience would be obviated in reducing the number of followers to be attached to the judges during the progress of their circuits; and the district moonsiffs would at the same time receive a useful lesson under the eye of the judges, as to the most approved mode of investigating and deciding civil suits. The records of the suits decided by the judges or the officiating ameens on circuit would, we think, be most conveniently deposited with the senior district moonsiff, who might be employed to perform the functions of ameen.

39. The occasional circuits of the zillah judges would enable them to acquire an intimate knowledge of the state of the police within their respective zillahs, and they would have it in their power to furnish the fullest information to the magistrate and the provincial courts, upon the subject of any complaints which might be brought against the police officers for an irregular and improper exercise of their functions.

40. While the zillah judges are on circuit, the duties of their office at the sudder station would necessarily be confided to the registers, who would of course be empowered to officiate as assistant judges during the absence of their principals.

41. On this suggestion we also wish to have your unreserved opinion. You are at liberty to act upon it either generally or partially, if it shall appear to you to be free from material objection.

42. We agree with you in attaching high importance to the office of district moonsiff, and are most desirous to promote the utility and efficiency of that valuable class.

43. We are aware that the judicial commissioners were of opinion, that it was essential that the district moonsiffs should be influenced by motives of immediate gain in despatching the business before their courts; and hence their emoluments were made to consist partly of a fixed salary, and partly of fees of one anna in the rupee on the institution of suits. This arrangement may have in some respects effected the object it had in view; but we are apprehensive that it may have conduced rather to the quick despatch than the satisfactory adjustment of the business before their courts; we admit that the small number of appeals which have been made to the superior courts from the decisions of the district moonsiffs, compared with the number of suits decided by them, is apparently well calculated to diminish this apprehension; but before confidence can be placed in the general correctness of their proceedings, the number of suits appealed ought to be contrasted with the number appealable, and not, as has only been done, with the number decided. This comparison we have

not

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(3.) Letter to the *Madras* Government, 11 Apr. 1826.

not the means of making, but such a test is necessary, to prove the correctness of Mr. Stratton's opinion of the satisfactory character of the proceedings of the district moonsiff.

44. The collector of Bellary had stated that the district moonsiffs, by the exertion of their influence, drew into their courts suits, which, under the Regulations, were intended to be decided by the village moonsiffs; and with a view to prevent this inconvenience, you abolished the institution fee, on suits not exceeding 10 rupees value, in the courts of the district moonsiffs. It was considered by your Government to be desirable that those suits should be decided by the village moonsiffs; it was thought that more of them would be so settled in proportion as the delay in the courts of the district moonsiff increased; and it was expected that the district moonsiff, though still bound to decide such suits, would find means to put off or to evade altogether the adjustment of them, when he had others before him that yielded him fees.

45. In order to afford the people every facility of access to good judicature, we desire the establishment of numerous tribunals, conveniently situated, and with all attainable securities for the right conduct of the judge; but if obstacles are thrown in the way of suitors, by preventing or deterring them from taking their causes to a proper tribunal, there is a deviation from this principle.

If it is the wish of the people to take their suits to the district moonsiffs instead of the village moonsiffs, they should not by any means be discouraged from so doing; and the deterioration of the judicature, which must be the consequence of placing the judge's interest in opposition to his duty, is especially to be avoided.

46. Instances of the exertions of district moonsiffs to draw suits to their courts must no doubt have come to the knowledge of the collector of Bellary, but we are not aware of similar statements having been made from other districts; we apprehend, moreover, that the suits influenced by such means must be very few in proportion to those occasioned by the ordinary, legitimate and unavoidable causes of litigation.

47. If the number of suits taken to the village moonsiffs had been materially affected by the exertions of the district moonsiffs, the effect would have ceased with the motive which was supposed to have produced it. But since the fees on suits not exceeding 10 rupees value have been abolished in the courts of the district moonsiffs, the village moonsiffs have had even fewer suits than before.

48. In consideration as well of the enlarged powers confided to district moonsiffs by Regulation II. of 1821, as of the desirableness of diminishing the labours of the zillah courts, we are anxious that every encouragement should be given to the district moonsiffs, not only to dispose of the business without delay, but to weigh maturely the merits of each particular case.

49. With this view, we recommend that fixed salaries should be assigned to the district moonsiffs, which ought to exceed their former average receipts from fixed salary and institution fees. We do not however propose to dispense with the payment of an institution fee, but we recommend that no suit, instituted in a district moonsiff's court, should be subjected to a higher fee than two and a half per cent.

50. It may be expected that so considerable a reduction in the amount of the institution fee will bring a large addition of business into the courts of the district moonsiffs; and we are of opinion that a discretion should be lodged with the district moonsiffs to admit pauper cases into their courts. We must therefore expect that you will find it necessary to increase the number of district moonsiffs in each zillah; and we perceive that this measure was suggested by you as a remedy to the inconvenience which was experienced by the zillah judges from the additional duties thrown upon them and their registers by Regulation VI. of 1822.

51. We must leave it to your local experience to fix the number of district moonsiffs, according to the circumstances of each zillah; and in respect to the amount of their fixed allowances, we are anxious that it should be sufficient to secure the services of persons of respectability. We do not expect that the sum which may be collected from the institution fees will be sufficient to meet the additional expense; but we are satisfied that if the measure is attended with an improvement in the administration of civil justice, the expense will be more than compensated by a decrease of charge in the department of police. We think that it will be of advantage to attach to certain districts in each zillah a higher rate of allowances, to which persons of extraordinary merit should, as opportunities offer, be appointed; and we recommend that at the close of the year the judges of the provincial courts should be empowered to confer honorary rewards, in addition to their ordinary allowances, to such sudder ameens and district moonsiffs as may have discharged their duties in an exemplary manner. We are likewise of opinion that similar rewards should be given to the native head police officers, who may be reported by the magistrates to merit the approbation of Government.

52. In respect to the criminal branch of business, we regret to observe, from the correspondence which accompanied the latest half-yearly statements transmitted to us, that you are far from being satisfied with the manner in which the magisterial duties were conducted in various districts. We more particularly allude to the observations contained in Mr. Hill's letter to the Foujdarry Adawlut, dated 7th November 1823, relative to the half-yearly statement ending 30th June 1823; and we entirely approve of the tenor of your instructions on that occasion. The great diversity observable in the administration of the same laws by different magistrates points out the necessity for placing the proceedings of the magistrates under the control of an authority capable of correcting so great an inconvenience.

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53. The Foujdarry Adawlut have frequently reported to you the hardships and injuries which have been sustained by individuals from the irregular exercise of authority by the native heads of police, as well as from the want of a constant control over the proceedings of the magistrates; but we do not find that the representations of the judges have ever seriously engaged your attention. By section 40 of Regulation IX. of 1816, the judges on circuit are vested with a control over the recorded proceedings of magistrates; but the same judges, when sitting as judges of a provincial court, cannot interfere in the administration of that portion of the criminal law which is confided to the magistrates; their criminal judicature as provincial judges being strictly limited to a control over the proceedings of the zillah criminal judges. It is therefore obvious that individuals who may be sentenced by the magistrates during the periods when the judges of the provincial courts are not on circuit, have no means of appealing against the magistrates' proceedings, however erroneous or irregular these proceedings may have been. The Foujdarry Adawlut suggested that the judges of the provincial courts should be vested with the same authority over the proceedings of magistrates, as they now possess over the proceedings of the criminal judges; and we conceive that it is but equitable that persons who may be sentenced to punishment by magistrates should possess the same facilities for procuring a revisal of the magistrates' proceedings when the provincial courts are not on circuit, as persons similarly circumstanced now do during the periods when those judges are on circuit.

54. We are likewise of opinion, that a salutary check against the abuse of authority on the part of the native heads of police would be secured by extending the right of petition to all persons who may be sentenced to punishment by those authorities. All complaints against the proceedings and decisions of the native heads of police should, however, be addressed to the magistrate or assistant magistrate, as might be most convenient to the petitioners; but to secure the attention of the magistrates and their assistants, they should be required to keep a record of all the petitions which may be received, complaining of the acts of the subordinate officers; and in an explanatory column to state shortly the reasons for either affirming or altering the sentence in each particular case. A copy of this record should be transmitted monthly to the provincial court, to enable the judges to exercise a watchful superintendence over the proceedings of the police authorities.

55. In your instructions to the Foujdarry Adawlut, dated 7th November 1823, you have suggested that "the magistrates and criminal judges should be required to submit their periodical statements to the provincial courts, accompanied by any observations which the contents of them might seem to make necessary;" and as the course which we propose should be adopted places the control of the criminal and police proceedings of all the local authorities immediately in the hands of the judges of the provincial courts, we should hope that it would be impossible for such a disparity as that exhibited in the half-yearly statement ending 30th June 1823, between the adjoining districts of Coimbatore and Madura, to exist without measures being instantly adopted for remedying a misapplication, if not an abuse of authority, which you have justly described to be "a public evil of very serious magnitude."

56. In the absence of that full information, which in any case we should desire to possess before we took upon ourselves to disapprove the proceedings of the local Government, and in the present instance, not without diffidence as to the correctness of our judgment when not in accordance with yours, we have thought it most prudent to suspend our final determination to intimate to you, unreservedly, the views which we have taken, and to desire that, after considering our doubts, and the grounds of those doubts, you will as frankly report to us your sentiments respecting them, and that you will give us such further information as the subject may demand, and you may be able to afford.

57. Entirely disposed to place due reliance on your prudence, we have now only to add, that, if after reconsideration of the whole matter, the restoration of any of the abolished zillah courts should, for the protection of the people, be in your judgment desirable, we authorize you to restore them, without waiting for further communication from us.

ANSWER to para. 11 of Letter of 4th January 1822.

Regulation I. of 1821.

58. We remark that Regulation I. of 1821, which empowers the Governor in Council to establish or abolish provincial and zillah courts of judicature by an order in council, without enacting a Regulation for that purpose, was passed without any discussion on the subject being placed on record; and that the only reason given for your not previously referring it, according to the usual course, to the Supreme Government, was, that it would save time. Adverting to the important functions of the provincial and zillah courts, and to the provisions of Regulation I. of 1802, and of the Act 37 Geo. 3, c. 142, s. 8, we think it necessary to direct that the establishment or abolition of those tribunals be effected as heretofore, and, as at the other presidencies, by a formal Regulation. It is required by section 5, Regulation I. of 1802, that in the preamble of every Regulation the reasons for enacting it shall be stated; but in the preamble of Regulation I. 1821, no reason is assigned; it is merely said that it will be convenient. We desire that the attention of the officers who prepare drafts of Regulations may be particularly directed to the rules laid down in Regulation I. of 1802.

We are, &c. &c.

London, 11th April 1826.

(signed) *C. Marjoribanks.*
G. A. Robinson, &c.

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(4.) Letter from the *Madras* Government, 27 Apr. 1827.

"(4.)—COPY of a LETTER from the *Madras* Government to the Court of Directors, dated the 27th April 1827; with its Enclosures.

Honourable Sirs,

1. WE have the honour to acknowledge the receipt of your honourable court's letter of the 11th April 1826, communicating your sentiments on the subject of the abolition of the zillah courts under this presidency, the employment of district and village moonsiffs in the administration of justice, and the conduct and control of the police under the present system.

2. At our meeting on the 30th January 1827, we took into consideration the important subjects discussed in the Despatch to which we have now the honour of replying, and have recorded in our Consultations of that date our sentiments on the several points upon which explanation appeared to be required.

3. The observations which are there offered in detail will, we trust, satisfy your honourable court, that although we did not consider it necessary to call for the opinion of the local and superior officers in the judicial department before the abolition of such courts as we had reason to believe were no longer required was carried into effect, the measure was not hastily adopted; that it was unconnected with the establishment of sub-collectors; and has not been productive of so much inconvenience to the people as your honourable court, from the fact of a few petitions against the measure having been received, and from the reports of judicial officers of the distance which, in one or two districts and in extreme cases, suitors and witnesses have had to travel, have been led to suppose, that there is little ground for the apprehension expressed by your honourable court, that in consequence of access to justice by the reduction of the zillah courts being rendered more difficult, crimes are compromised, prosecutions prevented, information suppressed, and acts of fraud and violence committed with impunity; or for the supposition that the control over the village moonsiffs and police officers is thereby rendered less efficient, and the power which they exercise, in consequence, abused. We trust we have also satisfactorily shown that there is little reason for considering the statement that prisoners are exposed to diseases, and even loss of life, by being sent from the hilly parts of Rajahmundry to the gaol at Masulipatam—another of the evils supposed to have been occasioned by the consolidation of the zillah courts—to be deserving of attention.

4. With respect to the district moonsiffs, we think we have clearly demonstrated in our proceedings before referred to, that there is no ground for drawing the inference that their courts are not popular, from the fact, that as the average of suits instituted in the zillah courts did not exceed the value of 175 rupees, most of them might have been carried to the native judicatories if the parties had wished it. Indeed the statements of the business performed by all the courts, European and native, throughout the country, laid before us periodically by the Sudder Adawlut, show that the number of suits brought before the district moonsiffs is far greater than could have been expected; and from the information which we have been able to collect, it appears that the proportion of appeals to decisions in their courts is extremely small; and we have little doubt that a statement of the decisions affirmed or reversed in appeal would turn the scale still more in their favour. We think we may confidently assert, from the increased resort of suitors to the native tribunals, that they have fully realized the expectation formed of their utility; and, considering the respectability of the situation, the facility with which misconduct can be brought to the notice of the local superior authority, and the interest which the zillah judges themselves have in selecting men of known integrity and ability for the office, we are of opinion that there is no reason for supposing that the trust reposed in district moonsiffs is abused. We have not therefore deemed it advisable to make any alteration in the existing Regulation with a view to render suits under 20 rupees appealable. No complaints have hitherto been made against the rule, and if any inconvenience should hereafter be found to arise from it, the remedy is in the hands of Government, and can be easily applied. But although we have not considered it advisable to modify the moonsiff Regulation in this respect, we have adopted several of the measures suggested by your honourable court for the improvement of the system: among these are the restoration of the fee on suits under 10 rupees, and the reduction of the fee payable by complainants on the institution of suits; which latter we have directed the Sudder Adawlut to carry into effect without making a corresponding reduction in the receipts of the district moonsiffs from this source. The expense, we are of opinion, should be borne by Government; and it is believed that the institution fees carried to the account of Government on suits dismissed for default, &c. will furnish ample funds to meet the disbursement. For facility of reckoning, however, we have fixed the fee at half an anna per rupee, instead of two and a half per cent.; the difference is trifling, and the calculation will be more easily understood by the poorer classes.

5. We have referred, for the consideration of the Sudder Adawlut, the suggestion of your honourable court, regarding the zillah judges holding alternate sessions at the different moonsiff stations within the zillah, and the allowing district moonsiffs a discretion of admitting pauper cases into their court; as also the suggestion of granting rewards to meritorious moonsiffs, and to head police officers for exemplary discharge of their duties: but we have not considered it advisable to shake the public confidence in the moonsiff system by so great an innovation as the substitution of salary for fees; and we feel confident that your honourable court, on referring to the reasons which we have assigned in the 37th, 38th and 39th paragraphs of our Proceedings, will approve our resolution to allow the system, for the present at least, to remain in this respect undisturbed.

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6. Whilst furnishing instructions to the Sudder Adawlut, on the subject of such parts of your honourable court's Despatch as relate to the moonsiff system, we suggested various other modifications of the rules under which the proceedings in the moonsiffs' courts are at present conducted, which do not require to be here noticed in detail, but which will, if finally adopted and introduced into the code of Regulations, form the subject of a future communication.

7. In the 11th paragraph of our Proceedings, we have endeavoured to show that there is no ground for the apprehension expressed by your honourable court that the village moonsiffs are vested with much uncontrolled power, and are subject to great temptation, which too many of them are unable to resist; and that the fear of prosecution, which was before a useful check upon them, is now diminished by the reduction of the zillah courts. The fact is, that this class of public officers, although gradually becoming more useful, as yet takes but little part in the active discharge of any but revenue duties.

8. Your honourable court have animadverted at considerable length, and with just severity, upon the conduct of native police officers in extorting confessions from prisoners, and appear to apprehend that they are not sufficiently under control. In those cases where police officers have been convicted of practising cruelty on persons in their custody, it is satisfactory to know that they have been severely punished; but our belief is, that in a great proportion of the cases where violence is charged, none has been used. It has now become so generally a practice with prisoners to bring forward at some stage of the trial a charge of having been compelled to confess the crime before the police officers, and witnesses in support of their assertions are so easily found among their relations and friends, that the tahsildars are cautious to avoid the appearance of any thing which can in any way be construed into an undue use of the authority vested in them.

9. As a proof how easily witnesses can be procured in support of accusations of violence, and how readily their evidence is received, we beg leave to refer your honourable court to a case brought to our notice by the magistrate of Coimbatore, and recorded in our Consultation of the 3d April. It is there stated that certain prisoners, charged with having committed an atrocious murder in open day, confessed the crime before the police, and when brought before the criminal judge denied it, and asserted that their depositions had been extorted; but alleged that they had no evidence to prove that they had been ill used by the police; before the court of circuit, however, they called several witnesses to prove the fact, and although the depositions of the witnesses differed in all material points from the statement made by the prisoners, their evidence was received, and an opinion strongly condemning the conduct of the police was recorded by the court, and communicated to the magistrate, in order that the parties accused might be severely punished. We believe that in this and in most other cases, in which cruelty is charged against the police, there is not the slightest ground for believing that any has been practised; and it is matter of surprise that police officers, restrained on the one hand by the dread of being dragged before the courts to answer to charges of imputed irregularity or misconduct, and stimulated on the other by the fear of drawing down upon themselves the displeasure of the magistrate in the event of any apparent remissness, discharge their duties so creditably and efficiently. The increasing tranquillity of the country, and the gradual diminution of organized bands of robbers, sufficiently prove the useful and meritorious services of the police. In the zillah of Ganjam, the notorious freebooter Maharta and his principal accomplices, against whom a military force had on several former occasions been unsuccessfully employed, have lately been apprehended by the police alone; and the magistrate of Guntoor has reported, that the principal and most troublesome, Chenchoo, Bochee, Naick and others, had been induced to surrender themselves, and have been brought to a civil and peaceable mode of livelihood, which he justly observes could not have been effected "unless the country had been under one person in the offices of collector and magistrate;" while to the southward, the notorious gang robbers, Appoo and Cautaun, who had for some years past infested the districts of Trichinopoly and Salem, have been at last secured, and their haunts and associates discovered. There are now no districts in which gangs of robbers are known to exist, and it is believed that at no former period was the sense of security of person and property more confirmed than it is at present.

10. With regard to the control which is exercised over the police, we are not aware that any change could render it more efficient than it is at present; and we trust that your honourable court, on referring to the explanation given in the 46th, 47th, 48th, 49th and 50th paragraphs of our Proceedings, will concur with us in that opinion; but if on further experience it should be found that some alteration is necessary, we think it ought to be made, not by giving any new power to the provincial courts, but by authorizing the judge on circuit to pass orders on petitions from every zillah within his range, during the whole course of his circuit, without reference to the particular district in which he may be at the time.

11. We are satisfied that more courts and more intermediate checks over the police are not wanted for the protection of the ryots from exactions, and of the inhabitants in general from theft and robbery; but more systematic experience, and consequently more aptitude among our local officers, both native and European, for the discharge of their several duties; we therefore entirely agree with your honourable court, that a system of training is as necessary in the judicial as in the revenue line, and that an intermediate class of functionaries, similar to that already established in the revenue, should be introduced into the judicial department.

12. We have accordingly, under the authority conveyed in the 57th paragraph of your honourable court's Despatch, established auxiliary courts in those districts* where, from the pressure of business, their services appeared to be most required, and the system of training could,

* Masulipatam, Cuddapah, Salem, Madura, Canara and Malabar.

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could, in consequence, be most effectually introduced. The presiding officers of these courts are denominated assistant judges and joint criminal judges, and are vested with the same civil and criminal powers as zillah judges; but in order that the files of the provincial courts might not be overwhelmed, if an appeal to them was allowed from all decisions by the assistant judges, and with a view also to adhere as nearly as possible to the rules regarding appeals in zillah courts, an appeal lies to the zillah judge from the decisions passed by the assistant judge, in suits for value not exceeding 1,000 rupees.

13. The expense of these courts will be considerably less than that of the zillah courts, as we have not considered it necessary to attach Hindoo or Mahomedan law officers to them, and as the salary of the assistant judge has been fixed at 1,400 rupees per mensem, and the native servants of the court will be paid at a rate somewhat below that fixed for similar classes of servants in the zillah court. The establishments of the auxiliary courts will be formed in the first instance from such of the servants of the zillah courts lately abolished as are now without employment and qualified for office; and when completed, will enable the zillah courts to effect a proportionate reduction in the number of servants on their establishments: the principle on which this will be regulated is explained in our Consultations of the 20th March 1827.

14. On reference to the 31st paragraph of our Proceedings, your honourable court will find our reasons for thinking that vacancies among the district moonsiffs should rather be filled up from the establishment of the assistant judges than that the opposite course should be observed; but upon the whole, we are of opinion that the selection should be left to the judges, without confining their choice to any particular class of people.

15. Your honourable court will not fail to observe, that the assistant judges now appointed have different powers and different duties from those who have hitherto been appointed, as occasion required, under Regulation VII. of 1809, and that it is still open to the Government to avail itself of the services of assistant judges under that Regulation, whenever the pressure of civil business alone may render it necessary to afford additional aid to the zillah judge.

16. In reply to the 58th paragraph of your honourable court's Despatch, we beg leave to refer you to the 52d and 53d paragraphs of our proceedings, for an explanation of the circumstance of no discussion on the subject of passing Regulation I. of 1821 having been placed on record, and for our reasons for considering the preamble to be sufficiently explanatory of the cause of the enactment of that Regulation, which we trust will prove satisfactory to your honourable court.

We have the honour to be, &c. &c.

(signed) *T. Munro.*
G. T. Walker, Lt.-Genl.
J. H. D. Ogilvie.

Fort Saint George,
27th April 1827.

(Enclosure.)

EXTRACT, *Fort Saint George*, Judicial Consultations, 30th January 1827.

Enclosure in Letter from the *Madras* Government, 27 April 1827.

THE Board proceed to take into consideration the Letter from the honourable the Court of Directors in this department, dated the 11th April 1826, together with the Minutes of the President and Mr. Ogilvie thereupon, which are ordered to be recorded.

[N° 1, *President's Minute.*]

1. I have considered with attention the letter from the honourable the Court of Directors in the Judicial Department, dated the 11th April 1826: some of the measures recommended in the letter may be immediately adopted with advantage; but there are some which it would not be advisable to adopt, and others which it may be found useful to introduce hereafter when the system is more consolidated and better understood, but which it would be inconvenient to carry into effect at present.

2. The honourable court, after noticing the abolition of the zillah courts between February 1820 and March 1823, observe, that the local and superior judicial officers should have been required to report their opinion, before measures of such extreme importance were decided on. The abolition was not hastily adopted; it had frequently been discussed among the members of Government, who were unanimous in their opinion regarding its expediency. Had the members of Government been men of little experience, and unacquainted with the operation of the judicial system, I should undoubtedly have thought it necessary to make a reference to the judicial officers; but Messrs. Stratton & Thackeray, the two civil members, were, from their general knowledge of the service and experience in the judicial line, at least as competent as any of the local officers to form a just opinion on the subject under consideration; and to have waited under such circumstances to collect opinions from every quarter would have been a mere waste of labour. There are some cases in which it is useful to have the opinion of every local officer; there are others in which that of only one or two of the most intelligent can be of the smallest use; and there are some in which none is necessary. I considered the present to be a case in which Government could have derived no aid from other opinions in forming its own, for it possessed in itself as extensive

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a knowledge of the localities of every district under this presidency, and of the characters and customs of the inhabitants, as could have been obtained any where else; and as it had before it the periodical returns of the business done in the several courts, it was enabled, by observing what was done in some of the larger and more populous zillahs, to determine how far some of the smaller ones might be united without detriment to the due administration of justice.

3. It is obvious too, that on such a question as that of the reduction of the number of zillahs, an impartial opinion could hardly have been expected from the judicial officers. They must be supposed to be like other men, favourable to the branch of service to which they belong, and however conscientious, they may be liable to be influenced without being sensible of it, by their wishes and their interests. Had the number of zillah courts been double or even treble of what it actually was, I am satisfied that not a single reduction would have been recommended.

4. Petitions against the abolition of the courts are in general of little weight; they prove nothing against the measure; they rise out of partial local interests. In whatever town or village a zillah court is established, it is beneficial to the inhabitants, not only for the sake of justice, but because it adds to the value of their houses and other property, gives them additional employment, and a better market for their produce. The removal of the court will of course be a loss to the inhabitants of that place and its neighbourhood, and produce petitions; but the same thing would happen if the court were not reduced, but removed within the same zillah from a small town to a larger one, more conveniently situated for the population of the whole zillah; or even if on removing the court, two courts instead of one were established in the same zillah, the inhabitants of the place from which the court had been removed would still complain. Had the courts been originally three times as numerous as they were, the reduction of any one of them would have produced petitions: Government cannot act upon such petitions, but must look to the wants of the whole country, and be guided by them in distributing the courts.

5. On the introduction of the judicial system, the courts were established at once, without any previous knowledge of the number that would be requisite. It was soon discovered that there were too many, and several were reduced; longer experience showed that the business of some courts was much less than that of others; that the business of all had been considerably diminished, by the operation of the Regulations of 1816 and subsequent enactments; and that a further reduction could be made without inconvenience and without imposing upon the courts more labour than they formerly had. It was upon this ground that the reductions from 1821 to 1823 were made, and it is to be regretted that any expression in the Minute proposing them should have led the honourable court to think that they were connected with the establishment of sub-collectors; there was no connexion between the two measures. The sub-collectors would have been appointed had there been no courts to reduce, and the courts would have been reduced if there had been no intention of appointing sub-collectors. But it was regarded as a satisfactory circumstance, that while we were increasing the expense of one branch of the service, we could lessen that of another without improving its efficiency. If we compare Bengal and Madras with respect to their relative extent of territory, and amount of Revenue property and population, and if we take into the account the relief which the Madras zillah courts have derived from the Regulations of 1816, I believe it will appear that Madras has as large a proportion of zillah courts as Bengal.

Para. 11 & 14.

6. The honourable court have quoted some reports of judicial officers, regarding the great distance which witnesses have sometimes to travel. A case is stated in Canara, in which some of the witnesses resided at the distance of 200 and others of 260 miles from the zillah court. Mangalore, the court station, is about 50 miles from the southern extremity, and 160 from the northern extremity of Canara, and about 210 from the most distant part of Sondah. There was a zillah court at Honawer, which was abolished many years ago by a former Government, and had the remaining court been then transferred from Mangalore to Candapore or Busroor, where the collector's cutcherry was for some years, it would have been equally distant from the northern and southern points of Canara, and would have obviated, as far as regards distance, every material inconvenience which has been since experienced. Canara is a long narrow tract of country, not more than 20 or 30 miles in its average width; and Sondha, which is situated above the Ghauts, is almost an entire jungle, thinly peopled and very unhealthy. In such districts, therefore, as Canara and Sondah, the partial evil of distance cannot be removed without giving to them more courts than the amount of their population and property requires. The pressure of business in Canara is much greater than in any other zillah, and has frequently engaged the attention of the Board; and though I have little doubt that it grew out of the misconduct of the court at a former period, yet I am convinced that it can now be remedied only by the aid of an assistant judge. A case is brought forward as one of great hardship in Chicacole, where some rayets travelled three times from Aska and Goomsoor to the zillah court, making a distance of a thousand miles. These are evidently extreme cases which seldom happen. Goomsoor is a remote, unhealthy hill zemindarry, over which our courts have a very imperfect authority.

7. These complaints are not peculiar to this country. In all countries we have the same or perhaps greater aversion of prosecutors and witnesses to attend the courts, and leave their homes and business, and the same complaints of distance and detention. In many of our

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our old zillahs, the court station was not centrical, but at one extremity of the district, like Masulipatam. It would be an useless multiplication of courts to attempt to bring every remote corner of a district within a limited distance of them. The people of India, both from habit and climate, attach much less importance to distance than we do; they travel at little expense, as they pay nothing on the journey for their accommodation; they would no doubt rather travel 40 or 50 miles to a court than 80 or 100; but it is the leaving their homes and the time they are to be absent from them and their business which they think most of. A man who has to go 50 miles, knows that he can reach the court in two or three days; if a hundred, in as many more; but he can form no guess how long he will be detained there. It may be one, two or three weeks, or as many months, and it is this which they chiefly complain of, and from which no increase of courts could afford more than a very trifling relief.

Para. 16, 17.

8. It is observed by the honourable court, that as the average of suits instituted in the zillah courts did not exceed the value of 175 rupees, most of them might have been carried to the district moonsiffs had the parties wished it. It is not easy to ascertain the motives which may have led to this preference. In some instances it may have been the belief that the case would be better examined in the zillah court; in others it may have been contrary; the character of the court, and the case being a plain or intricate one, would often influence the suitor in his choice of a court. In many cases recourse was no doubt had to the zillah judge, because the suitors resided in the town, which was the station of the zillah court. But one thing is clear, that is, all causes coming before the district moonsiffs might have gone to the judge, and as so small a proportion of them did go, that the moonsiff's court is much more popular than the zillah court. It cannot be denied that the abolition of the zillah courts was attended with inconvenience, from the loss of the services of the sudder ameens; but it was soon remedied by the appointment of additional moonsiffs.

Para. 20.

9. It is apprehended by the honourable court, that when, in consequence of the late reduction of the zillah courts, "access to justice becomes very difficult, crimes are winked at or compromised, prosecutions are prevented, information is suppressed, and acts of fraud and violence scarcely less terrible to the community in their commission than in their discovery, and its consequences must necessarily increase, although the Government may not be aware of the sufferings of the people." There is no cause, I think, for the apprehension here expressed. When at an earlier period several zillah courts were reduced, and Cuddapah and Bellary, each more extensive than any of the enlarged zillahs, were left with one zillah court each, no such apprehension was entertained, and no such consequences followed, and there is no reason to believe that they are more likely to follow in the recently enlarged zillahs. Crimes have not increased, they are gradually diminishing, and will continue to diminish. If the honourable court suppose that crimes can be prevalent without the knowledge of Government, or that the sufferings of the people can be concealed from it, they have formed an opinion of the state of things under this presidency which is far from being correct. There can hardly be any crime, and there can be no suffering of the people concealed from Government. There may be a very few exceptions in some of the hill zemindaries, where the authority of Government scarcely reaches; but, in all other districts, the detailed nature of our internal administration, and the innumerable number of rayets who hold their lands immediately of Government, bring us into such universal and direct intercourse with the people as to preclude the possibility of their sufferings being concealed from us.

Para. 22.

10. It is remarked by the honourable court, that the village moonsiffs, estimated to amount to 50,000, are vested with much uncontrolled power, and are subject to great temptations, which too many of them are unable to resist; that the fear of prosecution in the zillah courts was an useful check upon them, and that the late reduction of courts will remove this check. This opinion is not supported by any experience we have yet had. The village moonsiffs are so far from abusing their power that very few of them act at all. Their dread of being summoned on some false complaint or other to the zillah court is so great, that most of them avoid exercising the authority intrusted to them; this unwillingness was foreseen at the time the Regulation was passed, but not to the extent it has since been found to exist; had they been left according to ancient usage, responsible in the first instance only to their tahsildar, they would in general have discharged the duties of the petty jurisdiction assigned to them; but their fear of the court is so great, that only a small portion of the more intelligent venture to act at all. The abolition of the courts has not made them more confident, and it will yet be a very long time before they acquire confidence sufficient to enable them to become so useful in their subordinate station as they ought to be.

Para. 22.

11. It is stated very justly by the honourable court, that in order to form a just estimate of the merit due to the district moonsiffs from the small proportion of appeals made from their decisions, we ought not to compare the number of appeals with the number of decisions, but with the number of suits appealable, and that if this were done, the result would be less favourable to the moonsiffs. It is also remarked, that many appeals are prevented by expense and other obstacles, but this surely is not peculiar to the moonsiffs more than to the zillah and provincial courts. Even if we take only the appealable suits, the proportion of appeals will still be so small as to be very creditable to the moonsiffs. The records of the Government office do not supply the information required, as they do not distinguish between the suits above and below 20 rupees; and as it would take a considerable time to get it from

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the provinces, it will suffice for the present purpose to exhibit the returns which I have obtained from two of the nearest zillahs, Combaconum and Cuddapah.

		Number of Suits, 20 Rupees and upwards, instituted in the District Moonsiffs' Courts.	Number of such Suits settled by Razenamah.	Number of such Suits decided on the Merits.	Number of such Suits decided and appealed to the Zillah Courts.
Combaconum	1825	1,764	491	640	57
	1826	1,620	491	618	37
Cuddapah	1825	—	—	—	—
	1826	1,357	455	653	33

There is, I think, no sufficient foundation for the supposition that great abuses are practised by the district moonsiffs in the decision of suits under 20 rupees, from their not being appealable. Their proceedings are public, they are known to the whole district, and were they unjust, their courts would soon be deserted, and their fees would be lost; the cause of this would soon be known to the superior court, and they would be dismissed from office. The collectors and magistrates can take up complaints against them; and as they have every facility in learning the conduct of the moonsiffs towards the inhabitants, it is impossible that abuse of authority in giving unjust decisions can long remain undiscovered. Suits under 20 rupees can hardly afford a bribe to corrupt the moonsiff, and it is very improbable that the trifle which could be given should ever, except in very rare cases, tempt him to sacrifice his place and all his prosperity in life. The district moonsiffs are disliked by the servants of the zillah courts, because they carry off much of their former business; and they are still more disliked by the tehsildars, because they exercise a new authority in the district superior to theirs, and occasionally summon them before them. It was therefore apprehended, that unless the moonsiffs were strongly supported and guarded from all unnecessary interference, as far as it could be safely done, they would meet with so much counteraction and opposition as would render them quite inefficient. It was with the view of giving them weight and character among the people that it was thought advisable to vest them with authority to decide without appeal suits under 20 rupees. This measure has answered the expectations entertained of it. The moonsiffs' courts have now acquired the confidence of the people, and are eagerly resorted to by them; but though they are now so firmly established as not to require the same support as at first, and though their authority might not be shaken by making suits not exceeding 20 rupees appealable, such a change would, I think, be highly inexpedient, as it would only tend to multiply business without any adequate advantage; and as it is impossible that the present exemption of petty suits from appeal could be materially abused by the moonsiffs without complaint and discovery, and as no such complaints have yet appeared, I am of opinion that the present system ought not to be disturbed. Should any evil be found to arise from it on future experience, Government has the remedy in its own hands, and ought then to apply it, but not before.

Para. 25.

12. Among the evils supposed to have been occasioned by the consolidation of zillah courts are the diseases and even loss of life to which prisoners are said to be exposed, by being sent from the hilly parts of Rajahmundry to the jail at Masulipatam. I regarded this statement at the time it was brought forward as undeserving of attention, and as being founded in prejudice in favour of a favourite medical station; and in a want of due investigation, Government has often had cause to question the correctness of medical theories respecting the health of prisoners; they are often at variance with each other: a prison is said to be unhealthy because it is too little ventilated, or too low, or too much exposed: while, after all, the unhealthiness is merely casual, and originates in causes not known, and perhaps affects the habitations of the people and the barracks of the military as much as the prison. I doubt the authority both of the medical officer and the Foujdarry Adawlut, when they tell us that prisoners confined at Rajahmundry cannot be removed to the sea-coast without danger to their lives, more than those apprehended in the neighbouring districts. In every district under this presidency, except Tanjore and the Jagheer, there are unhealthy hilly tracts as well as in Rajahmundry, yet it has never been thought necessary to have particular prisons for the offenders from such tracts in these districts. The district of Rajahmundry is in general open: the population among the hills is very small. The great mass of the people, and Rajahmundry itself, are in the open country: Ganjam and Vizagapatam are both more hilly and unhealthy than Rajahmundry, and yet no objection has ever been made to bringing prisoners from the interior of these districts to the coast. The districts of Masulipatam are as unhealthy as those of Rajahmundry; they are mixed with each other. The hill inhabitants of the one are sent without hesitation to Masulipatam on the sea-shore; but the hill inhabitants of the other, it is said, can only, with safety to their lives, be sent to Rajahmundry. The real hill inhabitants, those who actually reside upon the hills, are very few, and they would probably suffer from confinement in any jail. But the people who fill our jails are

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those of the plains and of the villages among the hills, and they are so much the same race that no line could possibly be drawn so as to distinguish which of them should, for the sake of health, be sent to one jail and which to another.

13. The honourable court have adverted at considerable length, and with just severity, upon the conduct of the native police officers in extorting confessions from prisoners; and they specify some very atrocious cases, among which are the murder of a man by a peon, in endeavouring to extort confession; and the maiming of a prisoner of a potail, in torturing him for the same object; in both these cases, however, it is satisfactory to know that the offenders were convicted and punished, one capitally, and the other with two years' imprisonment and hard labour. The judge who reports, fears that cases of forced confession are too common, even among the officers of Government; but observes that the proof is difficult. When violence really takes place, the proof cannot be difficult; but I believe that in a great proportion of the cases where it is charged, none has been used. It is much more general in Malabar and Canara than in other zillahs; and the difference is probably owing to the people of Malabar and Canara still retaining much of the turbulent and vindictive character which they acquired while divided into petty states, and little restrained by any regular authority from exercising acts of outrage on each other. Para. 26 & 29.

14. It is no doubt too certain that many irregularities are used in obtaining confessions, and that in some instances atrocious acts are committed. But when we consider the great number of prisoners apprehended, and the habits of the people themselves, always accustomed to compulsion where there is suspicion, how difficult it is to eradicate such habits, and how small the proportion of cases in which violence has been used is to the whole mass, the number of these acts is hardly greater than was to be expected, and is every day diminishing. The prohibition against forced confessions is known to all the native police officers, and it seems extraordinary that they should ever employ force, for they know that they have much to lose, and nothing to gain by such conduct. But some of them, in spite of every injunction to the contrary, when they believe that a prisoner is guilty, think it right to extort confession. Police officers in general, however, will not gratuitously expose themselves to loss of place and their families to ruin by such conduct. Prisoners are sometimes hurt in attempting to escape; and notorious offenders are sometimes roughly treated by the villagers who assist in securing them. The marks thus caused are sometimes exhibited as evidence of extorted confession: wherever there is proof of force having been used for such a purpose, the police officers should be invariably punished and dismissed from the service. But great caution is necessary in believing the accusation of force. It should always be very clearly established before it is entitled to credit. Police matters are so public that the charge of violence when true can hardly be concealed. There are two things in which there is constantly very great exaggeration, the number of persons concerned in a robbery, and the number of extorted confessions; only a small part of the alleged cases of extorted confessions are ever substantiated. The circuit court say, that the proof is difficult; I believe that, when true, the proof is easy, and that the difficulty lies in by far the greater part being unfounded. The charge is easily made, and the effects of its receiving belief from the court of circuit is so generally known, that offenders very frequently bring it forward in some stage of the trial. It is a point which demands the greatest possible circumspection on the part of the magistrate. If he lets the prisoner escape who has been guilty of extorting confession, he encourages one of the worst offences against the administration of justice. If he punishes the police officer charged with this offence in only a very few instances on false evidence, he will effectually deter the whole body from the zealous exercise of their duty, and let loose a host of robbers upon the community. No number of zillah courts would prevent the excesses complained of among the native police. Were we to double the number, it would have no effect in restraining them. They can only be checked and effectually put down by the vigilance of the magistrates, by never letting them pass unpunished, by the police officers finding from experience that they never could gain any thing from the use of force, but would certainly suffer disgrace and punishment, and by time working a change in their habits.

15. The irregularities committed by the police are now much more difficult of concealment than when the offices of zillah judge and magistrate were united in one person, confined to a fixed station; and though too many of the police officers are still frequently guilty of such irregularities, yet the conduct of the great body of them is highly useful and meritorious, and its effects are becoming every day more evident in the increasing tranquillity of the country, and the gradual diminution of organized bands of robbers. The amelioration, though occasionally retarded by the misconduct of local officers, continues to advance, and is gradually diminishing the number of crimes.

16. The cruelties reported by the circuit judge to have been inflicted on certain inhabitants by the parbutti and holkars in Malabar were investigated by the collector, and found to be without proof. The observation quoted from the Report of the Board of Revenue as to "the rayets not being in that state of ease and security which the justice and liberality of the British Government mean to place them," was made by the Board, from perceiving that the courts could give no effectual security to the great mass of rayets, from the exactions of the village and district officers. The subject had frequently, during a long course of years, been brought to the notice of Government; and as it was manifest that the evil could only be remedied by empowering the collector to enforce the summary restitution of all such illegal exactions, Regulation c. IX. of 1822 was enacted for that purpose. It is not more courts that we want for the protection of the rayets from exactions, and of the inhabitants in general Para. 28, 29.

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general from theft and robbery, but more systematic experience, and consequently more aptitude among our local officers, both native and European, for the discharge of their several duties. I therefore entirely agree with the honourable court, that a system of training is as necessary in the judicial as in the revenue line, and that an intermediate class of functionaries, similar to that already established in the revenue, should be introduced into the judicial department. I have long thought that some of the senior registers should receive higher allowances and extended jurisdiction; but the appointment of assistant civil and criminal judges is a much better measure.

17. I think that five assistant judges will be sufficient for every object. Canara is the district in which an assistant judge is most wanted: the pressure there has frequently been the subject of deliberation at the Board, and of correspondence with the Sudder Adawlut. Next to Canara, the want of an assistant judge is greatest in Malabar; and after Malabar, the district which at present most requires help is Cuddapah. But I imagine that the pressure there is only temporary, that it has arisen in a great degree out of the disorders caused by the famine in 1823–24, and that it will soon cease. Salem, both from its great extent and population, ought to have an assistant judge, either at Coimbatore or any other convenient station. Masulipatam, for the same reason, should have an assistant judge; but I am not sure that it may not be advisable to transfer the zillah judge to Rajahmundry, and station the assistant at Masulipatam. The towns, both of Rajahmundry and Masulipatam, are situated on the extremity of their respective districts, but Rajahmundry is centrical to both.

18. I concur also with the honourable court, in thinking that the native judicial officers of the assistant judges should in the first instance be taken from the officers of the reduced zillah courts, as far as they may be properly qualified, and that the vacancies which may occur afterwards should be filled from the list of district moonsiffs, in order that we may have a gradation of native as well as of European officers; such a gradation is desirable in every department. It encourages good conduct, and secures to the public the services of zealous and experienced servants. It should, however, be understood that merit alone can entitle any individual to promotion.

Paras. 38 to 41.

19. Some advantages might result from carrying into effect the suggestions of the honourable court, regarding the zillah judges holding alternate sessions at different places within the zillah; but I imagine that they would be at least counterbalanced by the inconveniences which would attend the measure. The visiting and inspecting of the district moonsiffs by the zillah judge might be useful; but, on the other hand, the general progress of business would probably be retarded by his absence from the court station, by the time spent in travelling, and by the partial hinderance of the moonsiffs proceedings while engaged with him. The same object might perhaps be attained by his sending occasionally for such of the moonsiffs as most appeared to require instruction, and employing them for a time under his own eye at the court station. His travelling for the purpose of learning the state of the police and hearing complaints against it, and communicating his information to the magistrate and the provincial court, would do no good, and might often lead to inconvenient interference, by diverting his attention from the duties more properly his own to those which did not belong to him. It will be much safer to leave the supervision of the police to the magistrate and the court of circuit. Before coming, however, to any final resolution on the question of the zillah judge visiting the stations of the district moonsiffs, it may be advisable to refer it for the opinion of the judicial department.

Para. 43.

20. The honourable court are apprehensive that the allowing fees to the district moonsiffs "may have conduced rather to the quick despatch than to the satisfactory adjustment of the business before their courts;" and they observe that the number of suits appealed should be contrasted with the number appealable, before it can be proved that their proceedings are of a satisfactory character. We have not, as already stated, before us the documents required for making this comparison; but it is sufficiently evident, from the continued resort of the people to the courts of the district moonsiffs, that their decisions are in general satisfactory.

21. As the honourable court disapprove of the abolition of fees on suits under 10 rupees, which was done with the view of leaving no inducement to the district moonsiffs to use any undue means for drawing such petty suits into their own courts, and as the abolition of the fees does not appear to have had any material effect in any way, it seems proper that they should be restored.

Paras. 48 & 50.

22. In order to encourage the district moonsiffs, not only to dispose of their business without delay, but also to weigh maturely the merits of each particular case, the honourable court recommend that their payment by fees should be abolished, and that they should receive a salary somewhat higher than the average amount of their present salary and fees together, and that "no suit instituted in a district moonsiff's court should be subjected to a higher fee than two and a half per cent., which reduction they expect will bring a large addition to business in the district moonsiff's court." I do not think that the reduction of the fee to two and a half per cent. would increase the business in the district moonsiff's court, because I am convinced that all now goes there that would go, even if there were no fees. The business in these courts is more likely to diminish than to increase; some of the moonsiffs already complain of having too little business. It does not appear, therefore, to be necessary to give them a salary in place of fees, to enable them to weigh cases more maturely. Such a plan may be proper at a future period, but not for many years. It is not suited to the present

present habits and opinions of the people. The moonsiff system is both popular and efficient, far beyond every expectation that was formed of it, and is becoming more so every day. It is better not to disturb it, but to let it go on as at present, until it shall have acquired more firmness by time, by the improved judicial knowledge of the moonsiffs and the increased respect of the people. If the fee should have a tendency in some cases to stimulate the moonsiff to too hasty decision, it is to be recollected that this is checked by the fear of suitors not coming to his court. If his decisions were wrong, either from haste or any other cause, the people would soon discover it, and carry their suits to the zillah court if they could not be settled in the village. If the business were in any case actually too great for him to get through properly, the inconvenience could always be easily remedied by appointing an additional moonsiff. But though I would not think it safe to shake the public confidence in the moonsiff system by so great an innovation as the substitution of salary for fees, I highly approve of the recommendation that the fee in the district moonsiff's court should not exceed two and a half per cent. I think, however, that it would be more convenient to make the fee half an anna per rupee. The difference is trifling, and the calculation would be more easily understood by the poorer classes of the people. The charge of half an anna is so light, that it may be adopted for every sum cognizable by the district moonsiff. The decrease of receipt which will be occasioned by the lowering of the fee should be borne by Government, and it should in no way affect the income of the moonsiff, who should continue to receive, as at present, one anna per rupee.

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23. I am doubtful of the propriety of leaving to the district moonsiffs a discretion of admitting pauper cases into their courts, but the subject may be referred for the opinion of the judicial department.

24. The granting rewards to meritorious moonsiffs and to head police officers for exemplary discharge of their duty, as recommended by the honourable court, will no doubt be productive of considerable public benefit, and ought therefore to be carried into effect. It does not appear to be necessary to attach higher allowances to certain districts in each zillah, in order to reward extraordinary merit in moonsiffs by appointing them to them. In almost every zillah there are at present one or two moonsiff districts in which the allowances from fees are considerably higher than in the rest, and to which the more meritorious moonsiffs may be nominated as vacancies occur. It is not so much an addition to the pay of the moonsiffs, as a higher class of native judicial officer, that we want. I have frequently thought that in each zillah one, or in some cases, two native judicial officers might be invested, not only with civil but criminal jurisdiction, and be placed over a large district, somewhat in the same manner as is now proposed with regard to assistant judges. Such an office would give great respectability to the native judicial department, and would encourage the exertion and secure the services of men of integrity and talent, and in the administration of justice. The subject, however, requires too much consideration to be hastily adopted, but I shall endeavour at some future time to submit to the Board some proposition regarding it.

Para. 51.

25. The half-yearly statements of prisoners noticed by the honourable court do not exhibit a diversity in the administration of the same laws, but merely an error in the mode of preparing the statements, which either the provincial court or the Sudder Adawlut might at any time have ordered to be corrected, but which seems to have escaped their attention, until it was pointed out to them by Government.

Para. 52.

26. The honourable court are of opinion, that as individuals who may have suffered wrong from the magistrates or the police have no means of appeal against their proceedings during the periods when the judges of the provincial courts are not on circuit, that the judges of the provincial court should have the same authority as the judges on circuit now have, to receive and pass orders on petitions against the magistrate and police officers: that the magistrate should transmit monthly a statement of all petitions against the police officers to the provincial court, and that the control of all criminal and police proceedings of all the local authorities should be immediately in the hands of the judges of the provincial courts. I apprehend that the alterations here proposed would, if carried into effect, produce more harm than good. There is hardly any case, I believe, except that of vagrants or persons of bad character confined on suspicion, in which the interference of the provincial court could possibly afford any relief. In other cases, the term of imprisonment would have expired, and the prisoner been released, before the court could receive the petition, make the necessary inquiry, and communicate their orders to the magistrate. The release of vagrants and suspicious characters would with more advantage be left as it now is, to the magistrate and circuit judge. No possible benefit could in any case be derived from the interference of the provincial court, which could compensate for the inconvenience which it would produce. The magistrate's own character, the reports of his conduct by the circuit judge and Foujdarry Adawlut, and the danger of his being removed from his office by Government, are all securities against his committing any act of oppression in the interval between the departure and arrival of the circuit court. I am therefore of opinion that no change ought to be made, but that if any be made, it ought to be, not by giving any new power to the provincial court, but by authorizing the circuit judge to pass orders on petitions from every zillah within his range during the whole course of his circuit, without any reference to the particular zillah in which he may be at the time.

Para. 53, 54.

Para. 55.

27. The control of the magistrates and of the police ought not, I think, to be in the hands of the provincial court. The proceedings of both are already sufficiently under check, and

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to multiply checks would only tend to embarrass the operations of the police, and to divert the provincial court from their proper business, without producing the smallest increase of real control. The magistrates are intrusted with the direction of the police: all charges against them are cognizable by the court of circuit, and, when necessary, are referred to the Sudder Adawlut and to Government. Government ought to reserve to itself, as much as possible, the immediate control of the magistrates. By delegating it to too many intermediate authorities, it becomes more circuitous and less efficient, and will augment rather than lessen the business of Government.

Para. 54.

28. The honourable court appear to think that there is a restriction upon receiving complaints against the native heads of police. I know of no such restriction. All persons who are punished or injured by the police officers are perfectly free to petition against them.

Para. 56.

29. I have not hesitated, in the course of this Minute, to avail myself of the permission of the honourable court to dissent from their opinions where I could not agree with them. The court do not seem to be acquainted with the change that has taken place, and which is still going on in the character of the people and the state of the country, from the operation of the courts, of a standing army, and of a strong Government. They reason throughout their Despatch as if the reduction of certain zillah courts had left such zillahs unprotected by law, instead of being, as they were when incorporated with other zillahs, from the effects of the moonsiff system, of the magistrate's increased jurisdiction, and of other causes, as much protected by the zillah court, and as completely under its control, as they were in their separate state when first established. It is unquestionably the duty of Government to establish all the judicial courts that may be necessary for the due distribution of justice; but it has also another duty, not to waste the resources of the country in useless and expensive establishments. The judicial establishments of this presidency were at one time on a scale of extravagance, far beyond that of any other country, or what the resources of any country could maintain. They have since been reduced at different times, and are now at a standard more proportionate to the wants of the people; and any temporary pressure which may arise will be easily relieved by the appointment of an assistant judge, without the necessity of any additional zillah court. In every country some districts must be far from the principal courts, because no country can afford to maintain the expense of judicial courts, merely because some individuals of such remote districts may otherwise have to travel an inconvenient distance once or twice in the course of their lives. Expensive establishments, when once sanctioned, are not easily put down. There is never any difficulty in finding plausible reasons to keep up a lucrative office; and if the office be judicial, the protection of the people can always be brought forward in defence of it. But the people would be much more solidly protected by abolishing the expensive establishment and remitting the amount in their assessment.

30. I shall now recapitulate the several points which I have in this Minute recommended for the approval of the Board.

1st. That assistant judges be appointed to certain districts, and that a Regulation be framed, defining their duties and relation to the zillah judge.

2d. That the suggestion in the letter of the honourable court, regarding the zillah judges holding sessions with their district moonsiffs, be referred for the opinion of the Sudder Adawlut and subordinate courts.

3d. That the district moonsiffs be authorized to levy fees on suits under 10 rupees.

4th. That all suits in the district moonsiffs' courts shall pay a fee of half an anna per rupee, and no more; and that one anna per rupee shall be paid to the district moonsiff by Government.

5th. That the discretion proposed by the honourable court to be allowed to district moonsiffs in admitting pauper suits be referred to the Sudder Adawlut.

6th. That honorary rewards be granted to meritorious district moonsiffs and native heads of police at the close of each year.

(signed) *Thomas Munro.*

MINUTE by *J. H. D. Ogilvie*, Esq.

No. 2.

In the Despatch of the 11th April 1826, the honourable court have taken a review of the system of civil and criminal judicature under this presidency, and have expressed their apprehension, that the reduction which has been made in late years in the number of zillah courts has been productive of bad effects to the administration of justice, and the welfare and convenience of the people.

The observations recorded by the honourable president in reference to the honourable court's remarks, appear to me to be so conclusive, and so completely to embrace all points affecting the different questions under discussion, that I have little to add beyond my general concurrence in his views.

The appointment of assistant civil and criminal judges, besides ensuring a succession of experienced officers in the judicial line, will obviate any partial inconvenience that may have resulted from the present large extent of some of the districts, and will, in my opinion, render it unnecessary to restore any of the courts which have been abolished.

It appears to me that there is no ground for the fear expressed by the honourable court, of the civil authority granted to the village moonsiffs, so far as past experience enables us to judge;

judge; the evils they apprehend have certainly not been felt, and the danger of abuse will be daily less, as the general system becomes more organized and better understood.

In speaking of the district moonsiffs, the honourable court remark, that although "their jurisdiction extended to suits of the value of 200 rupees, the average amount of the suits instituted in the zillah courts scarcely exceeds 175 rupees;" and they appear to infer from this circumstance, that the courts of these officers are not popular; but this assuredly is not the case. Their courts, so far from being deserted, which would be the natural result of such a feeling, are held in the highest estimation by the people. The number of suits disposed of by them in 1825 was 53,652, and the number of appeals from their decrees 1,303. It is true, as observed by the honourable court, that a small proportion of appeals affords no conclusive test of the goodness of the original decisions, because many cases are not appealable at all, and many persons are unable to bear the expense of further litigation; but as all cases filed in the moonsiffs' courts might, at the option of the claimant, have been carried to the zillah courts, the very great number so filed is at least a proof that the institution is popular, and possesses the confidence of the community. I have endeavoured to obtain from the Sudder Adawlut a statement distinguishing the appealable suits from those under 20 rupees, but it has not been proved practicable to prepare it immediately. It will be observed, however, by the accompanying Statement (A.), that of the suits actually brought under the review of the zillah judges in appeal from the district moonsiffs, the proportion of decrees affirmed is far greater than that of those reversed, and little less than the proportion of those affirmed by the provincial court in appeal from the zillah judges, as will be seen in Statement (B.) This result could not but be considered satisfactory under any circumstances, but must be regarded as particularly so in the early stage of an institution which is likely to improve very materially as it becomes more organized, and the functionaries obtain more practical experience in the investigation and decision of intricate cases. It would be too much to expect that all the district moonsiffs should be equally able and efficient; but I have been assured by some of our best judicial officers, that there are many individuals among them whose decrees in general leave little to be desired, either in form or substance, and would do credit to many of our registers or even zillah judges.

I do not think there is at present any reason to alter the amount within which the decisions of these officers are final; there seems no cause to suppose the power vested in them has been abused; and it would be inexpedient, without some very powerful cause, to lower them in the eyes of the community by curtailing their authority.

For the same reason, I do not think it would be right to substitute a fixed salary for the fees they now receive; but I entirely concur in the proposition for reducing the fee to two and a half per cent., and making up the difference to the moonsiffs from the public treasury.

It is suggested by the honourable court that the zillah judges should occasionally visit the different stations within their jurisdiction; inasmuch as such an arrangement would afford them better means than they now possess of forming a just opinion of the estimation in which the different moonsiffs are held among the people; it would certainly be advantageous, but I am fearful that any benefit likely to result would be counterbalanced by the interruption which it would necessarily occasion to business at the sudder station.

I am, however, of opinion that the proposition of the honourable court, of extending to the provincial court collectively the powers now vested in the court of circuit, might be useful. At present, cases sometimes arise in which the punishment is completed before the interference of the judge on circuit can be obtained; many examples might be adduced, but one will answer every purpose. A magistrate, for instance, requires security for keeping the peace—this may be proper, or otherwise; but in default of finding it, the man is committed to jail; security cannot always be found; and if it is improperly demanded, it is hard that a man should be kept in jail four or five months, without any means open to him of obtaining redress.

In the 29th paragraph of the honourable court's Despatch, it is observed, "Although we are satisfied that considerable progress has been made by your Government in fixing and equalizing the rates of the public assessment, with a view of conferring upon the ryots a permanent interest in their lands; yet we are induced to draw your attention to the state of the people under the Madras presidency, as described by the Board of Revenue in their Proceedings dated 27th November 1820, in order that you may call upon the revenue authorities to show in what part of your territories the opinions of the Board can still be considered to apply. In that Report the Board observe, that they are assured, not only from the reports from officers deputed to inquire into complaints in the provinces, but from other unquestionable sources of information, that the great body of the ryots is not in that state of ease and security in which the justice and policy of the British Government mean to place them." But it should be remembered, that the Report here referred to was written six years ago, when a great part of the country was under village rents, and that which had reverted to the hands of Government still remained to be reclaimed from the disorder into which it had been plunged by the officers of Government, having been so long shut out from immediate intercourse with the ryots. The change which has since taken place in our revenue administration has altered most materially the relations between the officers of the Government and the great body of the people; and the constant intercourse which the revenue officers now keep up with the inhabitants renders it impossible that the exactions and oppressions there alluded to can be exercised without discovery.

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The good effects of the general system are already apparent in the increasing prosperity of the country, the gradual diminution of crime, and the security which the community now possess from the depredations of gangs of robbers; and I feel convinced that nothing is wanting to ensure the continuance of these blessings but a steady adherence to the system now in operation.

(signed) *J. H. D. Ogilvie.*

(A.)

STATEMENT showing the

Number of Suits disposed of by District Moonsiffs in 1825.	Number of Appeals instituted in 1825, from District Moonsiffs' Decrees.	Number of Appeals decreed on Merits.			Number of Appeals dismissed for Default.	Number of Appeals adjusted by Razeenamahs.	Total Number of Appeals disposed of by Judges, Registers and Sudder Ameens, in 1825, from the Decrees of the District Moonsiffs.
		Affirmed.	Reversed.	TOTAL.			
53,652	1,303	739	555	1,294	44	71	1,409

(B.)

STATEMENT showing the

Number of Suits disposed of by the Zillah Judges in 1825.	Number of Appeals instituted from the Zillah Judges' Decrees, in 1825, to the Provincial Courts.	Number of Appeals decreed on Merits.			Number of Appeals dismissed for Default.	Number of Appeals adjusted by Razeenamahs.	Total Number of Appeals from the Decrees of the Zillah Judges disposed of in 1825.
		Affirmed.	Reversed.	TOTAL.			
715	77	29	19	48	11	1	60

These 715 are original suits; besides which, the Zillah Judges disposed of 544 appeals in 1825, viz. 465 on merits, 42 dismissed for default, and 37 on razeenamahs.

No. 3. Resolution thereon.

1. The honourable court, after noticing the abolition of the zillah courts between February 1821 and March 1823, observe, that the local and superior judicial officers should have been required to report their opinion, before measures of such extreme importance were decided on. From this it may be inferred, that the honourable court believe the measure to have been hastily adopted; but such was not the case. It had been frequently discussed among the members of Government, who were unanimous in their opinion regarding its expediency. Had the members of Government been men of little experience, and unacquainted with the operation of the judicial system, it would undoubtedly have been thought necessary to make a reference to the judicial officers; but Mr. Stratton and Mr. Thackeray, the two civil members, were, from their general knowledge of the service and experience in the judicial line, at least as competent as any of the local officers to form a just opinion on the subject under consideration; and to have waited under such circumstances to collect opinions from every quarter would have been a mere waste of labour. There are some cases in which it is useful to have the opinion of every local officer. There are others in which that of only one or two of the most intelligent can be of the smallest use; and there are some in which none is necessary. The present was considered to be a case in which Government could have derived no aid from other opinions in forming its own, for it possessed in itself as extensive a knowledge of the localities of every district under this presidency, and of the character and customs of the inhabitants, as could have been obtained any where else; and as it had before it the periodical returns of the business done in the several courts, it was enabled, by observing what was done in some of the larger and more populous zillahs, to determine how far some of the smaller ones might be united, without detriment to the due administration of justice.

2. Moreover, on a question which so generally affected the interests of the judicial branch of the service, and so immediately those of the individuals in office, it would hardly have been reasonable to have expected an impartial opinion. These, like other men, must be supposed to be favourable to the branch of service to which they belong, and however conscientious

conscientious they may be, liable to be influenced, without being sensible of it, by their wishes and their interests.

3. In the 9th paragraph of their Despatch, the honourable court observe, that at different times petitions, deprecating the removal of the zillah courts, have been presented; such petitions are in general of little weight, they arise out of partial local interests, and prove nothing against the measure. In whatever town or village a zillah court is established, it is beneficial to the inhabitants, not only for the sake of justice, but because it adds to the value of their houses and other property, gives them additional employment, and a better market for their produce. The abolition of the court will of course be a loss to the inhabitants of that place and its neighbourhood, and produce petitions; and the same consequences would follow if the court were not reduced, but removed within the same zillah from a small town to a larger one, more conveniently situated for the population of the whole zillah; or even if, on removing the court, two courts instead of one were established in the same zillah, the inhabitants of the place from which the court had been removed would still complain. But when a court is abolished altogether, there is another class of persons interested in presenting petitions, namely, the discharged servants, who, by representing their own as the general feeling, hope to attract attention to the subject and to recover their former situations. Had the courts been originally three times as numerous as they were, the reduction of any one of them would have produced petitions. Government cannot act upon such representations, but must look to the wants of the whole country, and be guided by them in distributing the courts.

4. On the introduction of the judicial system, the courts were established at once, without any previous knowledge of the number that would be requisite. It was soon discovered that there were too many, and several were reduced. Longer experience showed that the business of some courts was much less than that of others, that the business of all had been considerably diminished by the operation of the Regulations of 1816 and subsequent enactments, and that a further reduction could be made without inconvenience and without imposing upon the courts more labour than they formerly had. It was upon this ground that the reductions from 1821 to 1823 were made, and it is to be regretted that any expression in the Minute proposing them should have led the honourable court to think that they were connected with the establishment of sub-collectors. There was no connexion between the two measures. The sub-collectors would have been appointed had there been no courts to reduce, and the courts would have been reduced even if there had been no intention of appointing sub-collectors. But it was regarded as a satisfactory circumstance, that while the expense of one branch of the service was increased, that of another could be lessened without impairing its efficiency, and that the number of native servants thrown out of employment would thereby be reduced. If a comparison be drawn between Bengal and Madras, with respect to their relative extent of territory and amount of revenue, property and population, and if the relief which the Madras zillah courts have derived from the Regulations of 1816 be taken into the account, it is believed that it will appear that Madras has as large a proportion of zillah courts as Bengal.

5. In paragraphs 11, 12, 13 and 14, of their Despatch, the honourable court have quoted some reports of judicial officers, regarding the great distance which witnesses have sometimes to travel. A case is stated in Canara, in which some of the witnesses resided at the distance of two hundred, and others of two hundred and sixty miles from the zillah court. Mangalore, the court station, is about fifty miles from the southern extremity, and one hundred and sixty from the northern extremity of Canara, and about two hundred and ten from the most distant part of Sondah. There was a zillah court at Honower, which was abolished many years ago by a former Government; and had the remaining court been then transferred from Mangalore to Cundapore or Busroor, where the collector's cutcherry was for some years, it would have been equally distant from the northern and southern points of Canara, and would have obviated, as far as regards distance, every material inconvenience which has been since experienced. Canara is a long narrow tract of country, not more than twenty or thirty miles in its average width; and Sondah, which is situated above the Ghauts, is almost an entire jungle, thinly peopled, and very unhealthy. In such districts, therefore, as Canara and Sondah, the partial evil of distance cannot be removed without giving to them more courts than the amount of their population and property requires. The pressure of business in Canara is much greater than in any other zillah, and has frequently engaged the attention of the Board; and though there is little doubt that it grew out of the misconduct of the court at a former period, yet it is clear that it can now be remedied only by the aid of an assistant judge. A case is brought forward, as one of great hardship, in Chicacole, where some rayets travelled three times from Aska and Gumsoor to the zillah court, making a distance of a thousand miles. These are evidently extreme cases which seldom happen. Gumsoor is a remote, unhealthy hill zemindary, over which our courts have a very imperfect authority.

6. These complaints are not peculiar to this country. In all countries we have the same or perhaps a greater aversion of prosecutors and witnesses to attend the courts and leave their homes and business, and the same complaints of distance and detention. In many of the old zillahs the court station was not centrical, but at one extremity of the district, like Masulipatam. It would be an useless multiplication of courts to attempt to bring every remote corner of a district within a limited distance of them. The people of India, both from habit and climate, attach much less importance to distance than we do. They travel at little expense, as they pay nothing on the journey for their accommodation. They would, no doubt, rather travel forty or fifty miles to a court than eighty or a hundred; but

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but it is the leaving their homes, and the time they are to be absent from them and their business, which they think most of. A man who has to go fifty miles, knows that he can reach the court in two or three days; if a hundred, in as many more; but he can form no guess how long he will be detained there. It may be one, two, or three weeks, or as many months; and it is this which they chiefly complain of, and from which no increase of courts could afford more than a very trifling relief.

7. In paragraphs 16 and 17 of their Despatch, it is observed by the honourable court, that as the average of suits instituted in the zillah courts did not exceed the value of 175 rupees, most of them might have been carried to the district moonsiffs, had the parties wished it. It is not easy to ascertain the motives which may have led to the preference. In some instances it may have been the belief that the cases would be better examined in the zillah court; in others it may have been the contrary; the character of the court and the case being a plain or intricate one, would often influence the suitor in his choice of a court. In many cases, recourse was no doubt had to the zillah judge, because the suitors resided in the town which was the station of the zillah court.

8. But besides these, there are many reasons, arising from the state of the law, which would prevent moonsiffs from trying suits, which, if the amount were the only restriction, would be properly cognizable by them. Moonsiffs are prohibited by Section xii. Regulation VI. 1816, from receiving suits on account of personal injuries or personal damages, which, amongst people given to litigation, are very numerous; and suits in which they or their relatives or dependents, or others employed in their cutcherries, may be parties, or in which a British subject, or an European foreigner, or an American, may be a party; and they are prohibited from receiving pauper suits. Clause 2. Section xiv. Regulation VI. 1816, requires that the Vakeels employed by the parties shall be either their relatives, servants, or dependants; and the difficulty which suitors experience in procuring persons of this description has been stated by the judge of Canara as a reason why many suits, otherwise cognizable by the moonsiff, are carried to the zillah court.

9. One thing however is clear, that as all causes coming before the district moonsiffs might have gone to the judge, and as so small a proportion of them did go, that the moonsiff's court is much more popular than the zillah court. It cannot be denied that the abolition of the zillah courts was attended with inconvenience from the loss of the services of the sudder ameens; but it was soon remedied by the appointment of additional moonsiffs.

10. In paragraph 20 of their Despatch, the honourable court express their apprehension, that when, in consequence of the late reduction of the zillah courts, "access to justice becomes very difficult, crimes are winked at or compromised, prosecutions are prevented, information is suppressed, and acts of fraud and violence scarcely less terrible to the community in their commission than in their discovery, and its consequences must necessarily increase, although the Government may not be aware of the sufferings of the people." It is believed that there is no just cause for the apprehension here expressed. When at an earlier period several zillah courts were reduced, and Cuddapah and Bellary, each more extensive than any of the enlarged zillahs, were left with one zillah court each, no such apprehension was entertained, and no such consequences followed; and there is no reason to believe that they are more likely to follow in the recently enlarged zillahs. Crimes have not increased; they are gradually diminishing, and will continue to diminish. Neither is there any reason for the supposition that crimes can be prevalent without the knowledge of Government, or that the sufferings of the people can be concealed from it. There can hardly be any crime, and there can be no suffering of the people concealed from Government. The disposition of the natives to present petitions on all subjects of real or imaginary grievance is a sufficient security of itself against this state of things. There may be a very few exceptions in some of the hill zemindaries, where the authority of Government scarcely reaches. But in all other districts, the detailed nature of our internal administration, and the innumerable body of rayets who hold their lands immediately of Government, bring us into such universal and direct intercourse with the people, as to preclude the possibility of their sufferings being concealed from us.

11. It is remarked by the honourable court, in the 22d paragraph of their Letter, that the village moonsiffs, estimated to amount to fifty thousand, are vested with much uncontrolled power, and are subject to great temptations, which too many of them are unable to resist; that the fear of prosecution in the zillah courts was an useful check upon them, and that the late reduction of courts will remove this check. This opinion is not supported by any experience we have yet had. The village moonsiffs are so far from abusing their power, that very few of them act at all. Their dread of being summoned on some false complaint to the zillah court is so great, that most of them avoid exercising the authority intrusted to them. This unwillingness was foreseen at the time the Regulation was passed, but not to the extent it has since been found to exist. Had they been left according to ancient usage, responsible in the first instance only to their tasildar, they would in general have discharged the duties of the petty jurisdiction assigned to them; but their fear of the court is so great, that only a small portion of the more intelligent venture to act at all. They are besides subject to a criminal prosecution before the magistrate for abuse of power, under the provision of Section iii. Regulation III. 1819. The abolition of the courts has not made them more confident, and it will yet be a very long time before they acquire confidence sufficient to enable them to become so useful in their subordinate station as they ought to be. The village moonsiffs are not appointed, as the honourable court suppose, entirely without selection. In all large villages there are several hereditary heads who are equally entitled

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to the office of moonsiffs; but the one most fit, and who appears most likely to give satisfaction to the people, is alone selected to discharge the duties.

12. It is stated very justly by the honourable court in the 22d paragraph of their Despatch, that in order to form a correct estimate of the merit due to the district moonsiffs, from the small proportion of appeals made from their decisions, we ought not to compare the number of appeals with the number of decisions, but with the number of suits appealable; and that if this were done, the result would be less favourable to the moonsiffs.

13. The propriety of making the comparison in the way pointed out by the honourable court had not escaped the notice of Government; and in a letter to the Sudder Adawlut, dated the 17th January 1826, the attention of that court was called to the subject. Still further to enable the Government to form an accurate opinion of the merits of the district moonsiffs, it is necessary that the number of appeals affirmed and reversed should be noted; for as appeals are frequently resorted to, merely to evade immediate payment of the sum adjudged, the number of appeals alone can furnish no certain information as to the correctness or otherwise of the moonsiffs' decrees; where the number affirmed is great, the result must be considered very favourable, and if deducted from the total number of appeals would leave a very satisfactory proof of the efficiency of the moonsiff's court.

14. It is also remarked, that many appeals are prevented by expense and other obstacles. But this surely is not peculiar to the moonsiff's more than to the zillah and provincial courts. Even if we take only the appealable suits, the proportion of appeals will still be so small as to be very creditable to the moonsiffs. The records of the Government office do not supply the information required, as they do not distinguish between the suits above and below 20 rupees; and it would take a considerable time to procure it from the provinces: it will suffice for the present purpose to exhibit the returns which have been obtained from two of the nearest zillahs, Combaconum and Cuddapah.

	Number of Suits of 20 Rupees and upwards, instituted in the District Moonsiff's Court.	Number of such Suits settled by Razenamah.	Number of such Suits decided on their Merits.	Number of such Suits decided & appealed to the Zillah Courts.
Combaconum	1825 - - - 1,764 1826.	491	640	57
Cuddapah	1825. 1826 - - - 1,262	416	614	27

15. There is, it is believed, no sufficient foundation for the supposition that great abuses are practised by the district moonsiffs in the decision of suits under 20 rupees, from their not being appealable. Their proceedings are public; they are known to the whole district; and were they unjust, their courts would soon be deserted and their fees would be lost.

16. If the people had not confidence in them, they would carry all suits under 10 rupees to the village moonsiffs, and thus reduce the field for abuse on the part of the district moonsiffs by one half, by confining their unappealable suits to such as were between 10 and 20 rupees, and those not for land. The cause of this would soon be known to the superior court, and the moonsiff would be dismissed from office. The collectors and magistrates can take up complaints against them; and as they have every facility in learning the conduct of the moonsiffs towards the inhabitants, it is impossible that abuse of authority in giving unjust decisions can long remain undiscovered. Suits under 20 rupees can hardly afford a bribe to corrupt the moonsiff, and it is very improbable that the trifle which could be given should ever, except in very rare cases, tempt him to sacrifice his place and all his prospects in life. The district moonsiffs are disliked by the servants of the zillah courts, because they carry off much of their former business; and they are still more disliked by the tasildars, because they exercise a new authority in the district superior to theirs, and occasionally summon them before them. It was therefore apprehended, that unless the moonsiffs were strongly supported and guarded from all unnecessary interference, as far as it could be safely done, they would meet with so much counteraction and opposition as would render them quite inefficient. It was with the view of giving them weight and character among the people that it was thought advisable to vest them with authority to decide without appeal suits under 20 rupees. This measure has answered the expectations entertained of it. The moonsiffs' courts have now acquired the confidence of the people, and are eagerly resorted to by them. But though they are now so firmly established as not to require the same support as at first, and though their authority might not be shaken by making suits not exceeding 20 rupees appealable, such a change would, it is believed, be highly inexpedient, as it would only tend to multiply business without any adequate advantage, and it is impossible that the present exemption of petty suits from appeal could be materially abused by the moonsiffs without complaint and discovery; and as no such complaints have yet appeared, the Board is of opinion that sufficient reason for disturbing the present system has not yet been shown. Should any evil be found to arise from it on future experience, Government has the remedy in its own hands, and ought then to apply it, but not before.

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17. Among the evils supposed to have been occasioned by the consolidation of zillah courts and alluded to in the 25th paragraph of the honourable court's Letter, are the diseases and even loss of life to which prisoners are said to be exposed by being sent from the hilly parts of Rajahmundry to the jail at Masulipatam. This statement was regarded at the time it was brought forward as undeserving of attention, and as being founded in prejudice in favour of a favourite medical station; and in want of due investigation, Government has often had cause to question the correctness of medical theories respecting the health of prisoners; they are often at variance with each other. A prison is said to be unhealthy because it is too little ventilated, or too low, or too much exposed; while, after all, the unhealthiness is merely casual, and originates in causes not known, and perhaps affects the habitations of the people and the barracks of the military as much as the prison. The authority both of the medical officer and the Foujdarry Adawlut may be doubted, when they assert that prisoners confined at Rajahmundry cannot be removed to the sea-coast without danger to their lives, more than those apprehended in the neighbouring districts. In every district under this presidency, except Tanjore and the Jageer, there are unhealthy hilly tracts as well as in Rajahmundry; yet it has never been thought necessary to have particular prisons for the offenders from such tracts in these districts. The district of Rajahmundry is in general open: the population among the hills is very small. The great mass of the people in Rajahmundry itself are in the open country: Ganjam and Vizagapatam are both more hilly and unhealthy than Rajahmundry, and yet no objection has ever been made to bringing prisoners from the interior of these districts to the coast. The hill districts of Masulipatam are as unhealthy as those of Rajahmundry; they are mixed with each other. The hill inhabitants of the one are sent without hesitation to Masulipatam on the sea-shore, but the hill inhabitants of the other, it is said, can only, with safety to their lives, be sent to Rajahmundry. The real hill inhabitants, those who actually reside upon the hills, are very few, and they would probably suffer from confinement in any gaol. But the people who fill the gaols are those of the plains and of the vallies among the hills, and they are so much the same race, that no line could possibly be drawn so as to distinguish which of them should for the sake of health be sent to one gaol and which to another.

18. The honourable court have animadverted, in paragraphs 26 to 29 of their Despatch, at considerable length and with just severity upon the conduct of the native police officers, in extorting confessions from prisoners, and they specify some very atrocious cases; among which are the murder of a man by a peon in endeavouring to extort confession, and the maiming of a prisoner by a potail in torturing him for the same object. In both these cases, however, it is satisfactory to know that the offenders were convicted and punished, one capitally, and the other with two years' imprisonment and hard labour. The judge who reports, fears that cases of forced confession are too common, even among the officers of Government, but observes that the proof is difficult. When violence really takes place, the proof cannot be difficult, but it is believed that in a great proportion of the cases where it is charged, none has been used. It is much more general in Malabar and Canara than in other zillahs, and the difference is probably owing to the people of Malabar and Canara still retaining much of the turbulent and vindictive character which they acquired while divided into petty states, and little restrained by any regular authority from exercising acts of outrage on each other.

19. It is no doubt too certain that many irregularities are practised in obtaining confessions; and that in some instances, atrocious acts are committed. But when the great number of prisoners apprehended is considered, and the habits of the people themselves, always accustomed to compulsion when there is suspicion, how difficult it is to eradicate such habits, and how small the proportion of cases in which violence has been used is to the whole mass, the number of these acts is hardly greater than was to be expected, and is every day diminishing. The prohibition against forced confessions is known to all the native police officers; and it seems extraordinary that they should ever employ force, for they know that they have much to lose and nothing to gain by such conduct. But some of them, in spite of every injunction to the contrary, when they believe that a prisoner is guilty, think it right to extort confession. Police officers in general, however, will not gratuitously expose themselves to loss of place and their families to ruin by such conduct. Prisoners are sometimes hurt in attempting to escape, and notorious offenders are sometimes roughly treated by the villagers who assist in securing them. The marks thus caused are sometimes exhibited as evidence of extorted confession. Whenever there is proof of force having been used for such a purpose, the police officer should be invariably punished, and dismissed from the service; but great caution is necessary in believing the accusation of force. It should always be very clearly established before it is entitled to credit. Police matters are so public, that the charge of violence, when true, can hardly be concealed. There are two things in which there is constantly very great exaggeration, the number of persons concerned in a robbery, and the number of extorted confessions; only a small part of the alleged cases of extorted confessions are ever substantiated. The circuit court say that the proof is difficult; but it is believed that, when true, the proof is easy, and that the difficulty lies in by far the greater part being unfounded. The charge is easily made, and the effect of its receiving belief from the court of circuit is so generally known, that offenders very frequently bring it forward in some stage of the trial. It is a point which demands the greatest possible circumspection on the part of the magistrate. If he lets the person escape who has been guilty of extorting confession, he encourages one of the worst offences against the administration of justice. If he punishes the police officer charged with this offence in only a very few instances on false evidence, he will effectually deter the whole body from the

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zealous exercise of their duty, and let loose a host of robbers upon the community. No number of zillah courts would prevent the excess complained of among the native police; were we to double the number, it would have no effect in restraining them: they can only be checked and effectually put down by the vigilance of the magistrates; by never letting them pass unpunished; by the police officers finding from experience that they never could gain any thing from the use of force, but would certainly suffer disgrace and punishment; and by time working a change in their habits.

20. The irregularities committed by the police are now much more difficult of concealment than when the offices of zillah judge and magistrate were united in one person, confined to a fixed station; and though too many of the police officers are still frequently guilty of such irregularities, yet the conduct of the great body of them is highly useful and meritorious, and its effects are becoming every day more evident in the increasing tranquillity of the country, and the gradual diminution of organized bands of robbers. The amelioration, though occasionally retarded by the misconduct of local officers, continues to advance, and is gradually diminishing the number of crimes.

21. The cruelties reported by the circuit judge to have been inflicted on certain inhabitants by the parbutti and holkars in Malabar, referred to in the 23d and 24th paragraphs of the honourable court's Letter, were investigated by the collector, and found to be without proof.

22. The observation quoted in the 29th paragraph of the Court's Letter, from the report of the Board of Revenue, as to "the rayets not being in that state of ease and security which the justice and liberality of the British Government mean to place them," was made by the Board, from perceiving that the courts could give no effectual security to the great mass of rayets from the exactions of the village and district officers. The subject had frequently, during a long course of years, been brought to the notice of Government, and as it was manifest that the evil could only be remedied by empowering the collector to enforce the summary restitution of all such illegal exactions, Regulation IX. of 1822 was enacted for that purpose. It is not more courts that are wanted for the protection of the ryots from exactions, and of the inhabitants in general from theft and robbery, but more systematic experience, and consequently more aptitude among our local officers, both native and European, for the discharge of their several duties. The Board therefore entirely agrees with the honourable court, that a system of training is as necessary in the judicial as in the revenue line, and that an intermediate class of functionaries, similar to that already established in the revenue, should be introduced into the judicial department. It has long been thought, that some of the senior registers should receive higher allowances and extended jurisdiction, but the appointment of assistant civil and criminal judges is deemed a much better measure.

23. Under Regulation VII. 1809 and Regulation I. 1821, it would be competent to the Government, without any new enactment, either to appoint assistant judges with the powers conferred on those officers by the former of these Regulations, or to establish new zillah courts with the same powers as are exercised by the existing zillah courts; but in the former case, civil powers alone would be vested in the new tribunal, and those would be exercised under certain restrictions, and only at the station where the court is now held; and in the latter, the local jurisdiction would be more extensive, and the establishment on a larger scale than is considered expedient.

24. It therefore appears necessary that a new Regulation should be passed; which, while it will authorize the establishment of additional courts on a new footing, will leave it open to the Government also to appoint assistant judges with the powers declared in Regulation VII. 1809, whenever and wherever they may be required.

25. It is accordingly resolved, that assistant judges vested with the full civil and criminal powers of a zillah judge, but with certain limitations as to local jurisdiction, shall be appointed in those districts where their services are considered to be required, and that the Sudder Adawlut be desired to frame and submit to Government, at their earliest convenience, the draft of a Regulation, containing provisions to the following effect:—

The Governor in Council to have power to establish, remove and abolish auxiliary courts whenever he may deem it expedient. The presiding officers to be called assistant judges and criminal judges.

The limits of the local jurisdiction of assistant judges and criminal judges to be determined by the Governor in Council, by an order in Council in the first instance; and to be liable to alteration by the same authority afterwards.

Assistant judges to exercise the same power in civil matters, within the limits allotted to his jurisdiction, as are now vested in a zillah judge.

Appeals from the decision of an assistant judge, in suits for property under the value of 1,000 rupees, to lie to the zillah court; in suits above that sum to the provincial court.

The zillah judge to be authorized to refer suits to the assistant judge, when the place in which the cause of action may have arisen may be situated on the borders of the assistant judge's jurisdiction, and may be so far distant from the zillah court as to render it a matter of great inconvenience to the parties and witnesses to attend at that station.

Native officers vested with the full powers of sudder ameens and so denominated, not being law officers, may be attached to the assistant judge's court; to be remunerated by a fixed salary and fees, or in such other manner as the Governor in Council may direct.

Exposition of points of law arising in matters before the assistant judge and sudder ameens, to be obtained from the law officers of the zillah courts.

Assistant criminal judges to have the same powers in every respect as criminal judges.

The Governor in Council to determine from time to time, whether there shall be a general gaol delivery for the whole zillah at one station only, or a separate one at each of the court stations.

26. It is believed that the foregoing are the only provisions which it will be necessary to enact in order to give effect to the proposed arrangement; but if there should be others which have been overlooked, the Sudder Adawlut will be desired to insert them in the draft of the proposed regulation: but the object of that court should be to reserve for a letter of instructions every point which is not indispensably necessary to form part of a legislative enactment.

27. It is resolved that assistant judges shall be appointed in the districts now forming the jurisdiction of the zillah courts of Canara, Malabar, Cuddapah, Madura, Salem and Masulipatam; and in order that the operation of the new courts may not be unnecessarily delayed after the Regulation which the Sudder Adawlut will be required to prepare shall have been enacted, the judges in the three first of the zillahs above mentioned, in communication with the collectors and magistrates, and in the three latter, in communication with the collectors and magistrates of Tinnevelly, Coimbatore and Rajahmundry respectively, will in the mean time be desired to select such portion, varying from one-third to one-fourth, of the present entire jurisdiction, as may be considered proper to form the jurisdiction of the assistant judge; the selection should be regulated with reference to the extent of population, to the means of providing accommodation for the court by making over to it any suitable public buildings which may now be unoccupied, or may be rendered available for the purpose, and the station should be as far distant from that of the zillah judge, and as centrical in regard to the jurisdiction of the assistant judge, as the above considerations will admit.

28. The several judges above mentioned, in reporting for the information and orders of Government the station and limits of the jurisdiction selected, will at the same time submit a list of the establishments required for the assistant judge's court. In that establishment it will not be necessary to include a Hindoo or Mahomedan law officer; and it is presumed that, generally, a much smaller establishment than is allowed to a zillah court will be sufficient for that of the assistant judge.

29. The Board consider it very desirable, that the native officers of the assistant judges' courts should in the first instance be taken from the officers of the reduced zillah courts, as far as they may be found properly qualified, and instructions to this effect will be issued when the number of persons to be entertained on each establishment shall be determined.

30. The Board is of opinion, that the salary of the assistant judge should be 1,400 rupees per mensem, which is about the sum received by a sub-collector, including fixed and extra tent allowance; this is nearly as much above the salary of a register to a provincial court as it is below that of a zillah judge, and is the same as was allowed to an assistant judge under Regulation VII. 1809.

31. The honourable court are of opinion, that vacancies which occur in the establishments of the assistant judges should be filled up from the list of district moonsiffs, in order that there may be a gradation of native as well as European officers; such gradation is very desirable in every department, as it encourages good conduct and secures to the public the services of zealous and experienced servants; but as the pay of the servants in a zillah court, with one or two exceptions, is generally far below that of a district moonsiff, there would be some difficulty in giving effect to the arrangement proposed by the honourable court. The duties required of persons holding situations in a zillah court are moreover such as cannot be learned by previous service as a district moonsiff; while, on the other hand, the habits of business acquired in a zillah court, and the means afforded of observing the mode in which the proceedings are conducted and justice administered, and of acquiring a knowledge of the Regulations, could not fail to be of use to a district moonsiff. It therefore appears desirable that the district moonsiffs should be selected from the most intelligent and industrious of the court servants, rather than that the opposite course should be observed. The labours of the court are so much diminished by efficient moonsiffs, and so much increased when the office is filled by persons not properly qualified for it, that it would perhaps be better to leave the selection to the judges, without confining their choice to any particular class of people.

Their attention, however, will be drawn, on a suitable occasion, to the advantage of securing a regular succession of persons duly qualified for the office.

32. Some advantages might result from carrying into effect the suggestions contained in paragraphs 38 to 41 of the honourable court's Letter, regarding the zillah judges holding alternate sessions at different places within the zillah; but it is apprehended that they would be at least counterbalanced by the inconvenience which would attend the measure. The visiting and inspecting of the district moonsiffs by the zillah judge might be useful; but, on the other hand, the general progress of business would probably be retarded by his absence from the

the court station, by the time spent in travelling, and by the partial hinderance of the moonsiff's proceedings while engaged with him. The same object might perhaps be attained by his sending occasionally for such of the moonsiffs as most appeared to require instruction, and employing them for a time under his own eye at the court station. His travelling for the purpose of learning the state of the police, and hearing complaints against it, and communicating his information to the magistrate and the provincial court, would do no good, and might often lead to inconvenient interference, by diverting his attention from the duties more properly his own to those which did not belong to him. It will be much safer to leave the supervision of the police to the magistrate and the court of circuit.

33. Before coming, however, to any final resolution on the question of the zillah judge visiting the stations of the district moonsiffs, it may be advisable to refer it for the opinion of the Sudder Adawlut, with an extract from paragraph 38 of the honourable court's Letter.

34. The honourable court are apprehensive, that the allowing fees to the district moonsiffs "may have conduced rather to the quick despatch than to the satisfactory adjustment of the business before their courts;" and they observe, that the number of suits appealed should be contrasted with the number appealable, before it can be proved that their proceedings are of a satisfactory character. The Board has not before it, as already stated, the documents required for making this comparison; but it is sufficiently evident, from the continued resort of the people to the courts of the district moonsiff, that their decisions are in general satisfactory.

35. The honourable court have suggested several modifications in the rules which now regulate the proceedings in the courts of the district moonsiffs, many of which appear to be well calculated to improve the system, and ought therefore, in the opinion of the Board, to be adopted.

36. Section v. Regulation II. 1821, which directs that district moonsiffs shall not receive fees on suits for sums not exceeding 10 rupees, was enacted, because it was supposed that the district moonsiffs, in order to obtain the fees, drew to their courts many of the petty suits which it was intended should be tried and determined by the village moonsiffs; the object of the Regulation was rather to induce suitors, in trivial causes, to resort to the village moonsiffs, than to withhold from the district moonsiffs the remuneration to which they would be entitled in cases which parties of their own accord, and from preference, brought to their courts. Experience has shown that the abolition of the fee has not had the effect of throwing into the hands of the village moonsiffs more causes than were formerly brought before them; but, on the contrary, there appears reason to suppose that it may have operated as an additional inducement to bring causes under 10 rupees to the courts of the district moonsiffs; for litigation in such cases not being attended with any expense in either court, suitors would naturally give the preference to that of the district moonsiff, whose superior qualifications afford a better prospect of obtaining a just decision, and whose judgment is less likely to be biassed by local and party interests than that of the village moonsiff. Moreover, as district moonsiffs are not authorized to refuse to receive and try suits under 10 rupees when brought before them, it appears reasonable that they should receive the same remuneration for the trouble which is imposed upon them in these as well as other cases. It is resolved, therefore, that Section v. Regulation II. 1821, be rescinded.

37. In order to encourage the district moonsiffs, not only to dispose of their business without delay, but also to weigh maturely the merits of each particular case, the honourable court recommend that their payment by fees should be abolished, and that they should receive a salary somewhat higher than the average amount of their present salary and fees together; and that no suit instituted in a district moonsiff's court should be subjected to a higher fee than 2 ½ per cent., which reduction they expect will bring a large addition of business into the district moonsiff's court.

38. The Board does not think that the reduction of the fee to 2 ½ per cent. would increase the business in the district moonsiff's court, because it is satisfied that all now goes there that would go even if there were no fees. The business in these courts is more likely to diminish than to increase; some of the moonsiffs already complain of having too little business. It does not appear therefore to be necessary to give them a salary in place of fees, to enable them to weigh cases more maturely; such a plan may be proper at a future period, but not for many years. It is not suited to the present habits and opinions of the people. The moonsiff system is both popular and efficient, far beyond every expectation that was formed of it, and is becoming more so every day. It is therefore better not to disturb it, but to let it go on as at present, until it shall have acquired more firmness by time, by the improved judicial knowledge of the moonsiffs, and the increased respect of the people.

39. If the fee should have a tendency in some cases to stimulate the moonsiff to too hasty decision, it is to be recollected that this is checked by the fear of suitors not coming to his court. If his decisions were wrong, either from haste or any other cause, the people would soon discover it, and carry their suits to the zillah court if they could not be settled in the village. If the business were in any case actually too great for him to get through properly, this inconvenience could always be easily remedied by appointing an additional moonsiff. For these reasons, the Board think that it would not be expedient to adopt the measure of granting a fixed salary in lieu of fees; and is of opinion, that the system should, for the present at least, remain in this respect undisturbed. But though the Board does not think it safe to shake the public confidence in the moonsiff system by so great an innovation as the

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substitution of salary for fee, it highly approves of the recommendation that the fee in the district moonsiff's court should not exceed 2½ per cent. The Board think, however, it would be more convenient to make the fee half an anna per rupee. The difference is trifling, and the calculation would be more easily understood by the poorer classes of the people. The charge of half an anna is so light, that it may be adopted for every sum cognizable by the district moonsiff. The decrease of receipt which will be occasioned by the lowering of the fee should be borne by Government; and it should in no way affect the income of the moonsiff, who should continue to receive, as at present, one anna per rupee.

40. It is resolved, therefore, to direct the Sudder Adawlut to provide by a legislative enactment, that the fee to be levied from the plaintiff, in suits preferred to district moonsiffs in the first instance, shall in future be half an anna in the rupee on the amount or value of the property in dispute, instead of one anna in the rupee, as prescribed in Clause first, Section xvi. Regulation VI. 1816; but that the district moonsiffs shall continue to receive the full compensation, at the rate of one anna in the rupee, on the decision of suits upon the merits, or upon their adjustment by razeenamahs of the parties, as allowed by Clause first, Section lix. of the Regulation in question. It is presumed that the institution fees carried to the account of Government, on suits dismissed for default, &c. will afford ample funds to meet this disbursement; but to obviate confusion, the Sudder Adawlut will be instructed to submit their sentiments as to the mode in which the payment should be made, which will afterwards be sufficiently provided for by a letter of instruction to the courts. All that will be required, therefore, to be introduced into the new Regulation will be the modification of Clause first, Section xvi. and Clause first, Section lix. Regulation VI. 1816, as to the amount of the institution fee above proposed, with a provision that the moonsiff shall receive the full compensation, when due, from the judge.

41. It appears that the present will be a convenient opportunity to rescind so much of Clause first, Section v. Regulation VI. 1816, as declares that the local jurisdictions of district moonsiffs shall be so arranged as to include one or more whole tehsildars, a provision for which was contained in the draft of a Regulation submitted with the letter from the Sudder Adawlut, under date the 22d December last. The enactment of the other provision of that draft, for rescinding so much of Section vi. Regulation VI. 1816, as restricts the office of district moonsiff to persons of the Hindoo or Mahomedan persuasion, does not appear to be immediately required.

42. If the provisions of Clause first, Section lxii. Regulation VI. 1816, are understood to authorize the district moonsiffs to transmit *directly* to the law officers of the zillah court written abstracts of the cases on which they require an exposition of the law, and to receive that exposition in the same way, the Governor in Council is of opinion that the law should be altered, and that all communications between district moonsiffs and the law officers of the zillah court should be required to be made through the zillah judge. This will prevent collusion between the moonsiffs and the law officers; will enable the judge to know what questions are proposed, and how they are answered; and will also afford him the means of ascertaining whether consistent expositions of the law are given on the same points, at different times and to different moonsiffs. The propriety of this mode of proceeding is so obvious, that it is understood to be universally adopted; but it appears proper that the latitude which the section in question seems to imply, in respect to direct communication, should be taken away; and that it should be optional with the judge, either to refer the points to his own law officers, or to those of any other zillah. Unless this option be given to the judge, it is obvious that the remedy for an erroneous exposition of the law to the moonsiff would not be found in an appeal to the zillah judge, to whom the same exposition would of course be given by the same law officer. For similar reasons, in regard to points arising in cases tried by himself in the first instance, and appealable to the provincial court, it seems desirable that Clause first, Section xvi. Regulation III. A. D. 1802, should be so modified as to admit of a zillah judge referring cases for the opinion of the law officers of other *zillah courts*, as well as to those of the "Supreme Courts;" and also to two at once whenever the importance of the subject, or other cause, may render such a measure advisable.

43. The Board entertains doubt as to the propriety of leaving to the district moonsiff a discretion of admitting pauper cases in their courts, but resolves to refer the subject for the opinion of the Sudder Adawlut.

44. The granting rewards to meritorious moonsiffs and to head police officers for exemplary discharge of their duty, will no doubt be productive of considerable public benefit, and ought therefore to be carried into effect. It does not appear to be necessary to attach higher allowances to certain districts in each zillah, in order to reward extraordinary merit in moonsiffs by appointing them to them. In almost every zillah there are at present one or two moonsiff districts in which the allowances from fees are considerably higher than in the rest, and to which the more meritorious may be nominated as vacancies occur. The means, moreover, of rewarding the most deserving moonsiffs will in some degree be afforded by the proposed appointment of sudder ameens, not being law officers, to the courts of the assistant judges, as they will receive higher pay than the district moonsiffs; and from having a more extended jurisdiction will derive larger emoluments from fees. The Sudder Adawlut will, however, be desired to submit any suggestions which may occur to them, as to the best mode of rewarding meritorious moonsiffs and heads of police.

45. The half-yearly statements of prisoners noticed by the honourable court in the 52d paragraph of their Letter do not exhibit a diversity in the administration of the same laws,

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Paras. 53 and 54.

but merely an error in the mode of preparing the statements, which either the provincial court or the Sudder Adawlut might at any time have ordered to be corrected, but which seems to have escaped their attention until it was pointed out to them by Government.

46. The honourable court are of opinion, that as individuals, who may have suffered wrong from the magistrates or the police, have no means of appeal against their proceedings during the periods when the judges of the provincial courts are not on circuit, that the judges of the provincial courts should have the same authority as the judges on circuit now have, to receive and pass orders on petitions against the magistrate and police officers; that the magistrate should transmit monthly a statement of all petitions against the police officers to the provincial court, and that the control of all the criminal and police proceedings of all the local authorities should be immediately in the hands of the judges of the provincial courts.

47. In the opinion of the Board, the control of the magistrates and of the police ought not to be in the hands of the provincial court. The proceedings of both are already sufficiently under check; and to multiply checks would only tend to embarrass the operations of the police, and to direct the provincial court from their proper business, without producing the smallest increase of real control. The magistrates are intrusted with the direction of the police; all charges against them are cognizable by the court of circuit, and when necessary, are referred to the Foujdarry Adawlut and to Government. Government ought to reserve to itself, as much as possible, the immediate control of the magistrates. By delegating to too many intermediate authorities, it becomes more circuitous and less efficient, and will augment rather than lessen the business of Government.

48. The Board is strongly impressed with the conviction, that the superintendence of the police, involving the peace and good order of the country, ought not to be exercised on judicial principles, with all the forms and technicalities which they necessarily entail, and with their inaptitude to such a purpose, but upon the principles of civil government, leaving, as is at present left, redress of actual wrongs to be obtained by due course of law; but the correction of errors and the remedy of inconveniences to proceed from the executive administration, or those to whom its authority may be delegated, upon an enlarged and unfettered consideration of the welfare of the community.

49. It is only in the case of imprisonment that the interference of any superior court could be *immediately* necessary or beneficial to the party aggrieved; but the term for which magistrates are empowered to adjudge imprisonment is so short, that before the complaint could be conveyed to the provincial court, an explanation called for from the magistrate, his reply received, and final orders passed by the provincial court, the sentence will, in most cases, have been fulfilled, and redress can then be as substantially afforded by the judge on circuit a few weeks after, as by the provincial court collectively at the time; besides, if persons, considering themselves aggrieved, were at liberty to complain to the provincial court collectively, as well as to the judge on circuit, it would frequently happen that after an unsuccessful application to the latter, the party would, before the return of the circuit judge to the station of the provincial court, prefer his complaint to the former, and inconsistent orders might be passed; or in the absence of the circuit judge, unnecessary references made to the magistrate on matters which a competent authority had already decided. The power of control must, therefore, be vested either in the judge on circuit, or in the provincial court collectively, not in both; and it is the opinion of the Board that it is best in the hands of the judge on circuit, as the authority to whom parties aggrieved can apply with least inconvenience to themselves and witnesses. The most salutary control, however, exists in the responsibility of the magistrate to Government, and in the powerful motives by which he is stimulated to act for the public advantage.

50. The honourable court appear to think, that there is a restriction upon receiving complaints against the native heads of police; but Government is not aware of any such restriction; all persons who are punished or injured by the police officers are perfectly free to petition against them.

51. The sentiments expressed in the President's Minute, being entirely in accordance with those of the other members of the Government, have been unanimously adopted by the Board; and in the course of these proceedings, it has not hesitated to avail itself of the permission of the honourable court to dissent from their opinions where it could not agree with them. The honourable court do not seem to be acquainted with the change which has taken place, and which is still going on in the character of the people and the state of the country, from the operation of the courts, of a standing army and of a strong Government; they reason throughout their Despatch as if the reduction of certain zillah courts had left such zillahs unprotected by law, instead of being, as they were, when incorporated with other zillahs, from the effects of the moonsiff system, of the magistrate's increased jurisdiction, and of other causes, as much protected by the zillah court, and as completely under its control, as they were in their separate state when first established. It is unquestionably the duty of Government to establish all the judicial courts that may be necessary for the due distribution of justice; and it has also another duty, not to waste the resources of the country in useless and expensive establishments. The judicial establishments of this presidency were at one time on a scale of extravagance far beyond that of any other country, or what the resources of any country could maintain. They have since been reduced at different times, and are now at a standard more proportionate to the wants of the people; and any temporary pressure which may arise will easily be relieved by the appointment of an assistant judge, without the necessity of any additional zillah court. In every country some

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districts must be far from the principal courts, because no country can afford to maintain expensive judicial courts, merely because some individuals of such remote districts may otherwise have to travel an inconvenient distance once or twice in the course of their lives. Expensive establishments, when once sanctioned, are not easily put down. There is never any difficulty in finding plausible reasons to keep up a lucrative office, and if the office be judicial, the protection of the people can always be brought forward in defence of it. But the people would be much more solidly protected by abolishing the expensive establishment, and remitting the amount in their assessment.

52. In the 58th paragraph of their Despatch, the honourable court observe, that Regulation I. 1821, which empowers the Governor in Council to establish or abolish courts by an Order in Council, without making a Regulation for the purpose, was passed without any discussion on the subject being placed on record, and appear to object to the establishment or abolition of courts otherwise than by a formal Regulation, on the ground of the important functions of those tribunals, and the provisions of Regulation I. 1802, and of the Act 37 Geo. III. c. 142, s. 8. The Board observes, that whether the discussions on such subjects be placed on record, and whether the grounds of the proceeding be detailed in the preamble of a Regulation or not, the measures are not less the result of mature deliberation among the members of the Government, than if the records of the office were burthened, and the preamble of a Regulation filled with details on points on which there is no dissenting voice in the Council. No court is ever established or abolished without a thorough conviction of the necessity or expediency of the measure; and where, upon such conviction, the establishment or abolition of a court has been determined on, the distribution of justice to the country would be improperly deferred in the one case, and an unnecessary expense incurred in the other, by waiting until all the official routine and references which precede the enactment of a formal Regulation have been gone through; and the code, already inconveniently bulky, would be rendered more so by an addition of matter which can in nowise be made the subject of judicial cognizance, and cannot affect the principles on which justice is administered.

53. With regard to the preamble of Regulation I. 1821, in which it is considered by the honourable court that sufficient reasons for passing the Regulation have not been stated, the Board observe that it is therein declared, that the powers which it vests in the Governor in Council are granted "for the sake of public economy, the convenience of the people, and for facilitating the distribution of justice;" these reasons were thus concisely stated, because it was considered that they were of such force and weight in themselves as to render detailed discussion unnecessary, and because it is always desirable that a legislative enactment should be as clear and concise as possible.

54. As the subject of modifying certain parts of the Regulations is now under consideration, it is resolved to notice a few further provisions which require to be rescinded, although not connected with the rules respecting district moonsiffs, which have formed the subject of a former part of these proceedings.

55. The first provisions which require to be removed from the code are those contained in Section xv. Regulation IV., and Section xiii. Regulation V. 1802, which authorized the Sudder Adawlut to suspend from office judges of the zillah and provincial courts in certain cases. It is not properly a provision of law, but an act of Government, to suspend a judge; and such matters should be entirely excluded from the Regulations. For a similar reason, Section xxxiv. Regulation I. 1803, which gives to the Board of Revenue the power to summon the collectors and their assistants to the presidency, to fine and to suspend them from office, should also be rescinded.

56. The power vested in the courts of circuit by Section xxviii. Regulation VII. 1802, to order corporal punishment to be inflicted for contempt of court, appears to be very objectionable. It is believed that throughout the Code of Regulations, corporal punishment is confined to offences against the persons, property or morals of the people; and the proper punishment for contempt of court appears to be fine or imprisonment. Considering how vague the meaning of the term is, and that it rests solely with the offended party to determine what shall be deemed contempt of court, it seems very desirable that Section xxviii. Regulation VII. 1802, should be rescinded and a provision substituted, authorizing the court to adjudge a fine or imprisonment for a definite period. Section xxii. Regulation III. 1802, which gives to a zillah court power to punish contempt of court and other offences against itself, by a fine not exceeding 200 rupees, or confinement *until the fine shall be paid*, should be modified in regard to the latter provision, and imprisonment for a definite period substituted. The persons most likely to be guilty of contempt of court are such as in all probability would not have the means of paying a fine of 200 rupees, and imprisonment for life might be the consequence.

57. Section ii. Regulation I. 1819, rescinds Section ix. Regulation XXVI. 1802, and declares that zemindaries may be divided into portions charged with a proportion of the permanent land-tax less than 500 pagodas per annum; but Section x. Regulation XXV. 1802, containing an opposite provision, remains unrescinded. This is understood to be an error from inadvertence, and should be rectified by rescinding the section last referred to.

58. The Sudder Adawlut will be instructed to take a suitable opportunity to introduce the proposed modifications into the Code of Regulations.

Appendix, No. III.

APPOINTMENT of Commissioners of Revenue and Circuit.

Appendix, No. 3.

COPY of a LETTER, in the Revenue Department, from the *Bengal* Government to the Court of Directors, dated 10th December 1828; with its Enclosures.

Letter from the *Bengal* Government, 10 Dec. 1828.

Honourable Sirs,

1. HAVING seen reason to conclude that the system in operation for the superintendence and control of the executive Revenue authorities is seriously defective, (your honourable Court appear to have come to the same conclusion,) we have considered it to be our duty to enter on a full consideration of the means by which a suitable remedy may be applied. And after deliberate reflection and much discussion, we have satisfied ourselves that for the attainment of the objects which your honourable Court and the local government have with equal anxiety laboured to accomplish, it is indispensably necessary to employ a considerable number of revenue commissioners, vested with a controlling authority, each over a moderate tract of country, and acting intermediately between the collectors of districts and a general Board stationed at the presidency.

2. While this matter engaged our attention in the Revenue department, we found in the communications of the Sudder Adawlut, and in the reports of the state of business in the several courts of civil and criminal judicature, not less occasion to infer, that in the Judicial department also some change was essentially necessary, in order to secure an adequate supervision of the executive officers and the due administration of justice. And as the first step to the desired reform, it has appeared to us to be advisable to employ the same agency by which the revenue district officers are to be controlled and directed in superintending the police and administering criminal justice under the authority of the Nizamut Adawlut. This we propose to effect by vesting the above-mentioned commissioners with the powers that belong to the courts of circuit.

3. We are thus able to provide, with some reduction of expense, such a number of commissioners of revenue and circuit as to secure that each may, without difficulty, superintend efficiently the affairs of the districts placed under him, even in quarters where circumstances call for the most minute interference, and at the same time hold the half-yearly sessions with the regularity which justice and policy equally require. And after the maturest reflection, we do not perceive that, even on the strictest principles of those who advocate the system established by the code of 1793, such an union of powers in the authority appointed to control the executive officers is liable to any serious objection. It is certainly, we conceive, calculated to secure many important advantages.

4. In regard to the powers exercised by the officers in charge of districts, we do not propose any immediate change. The executive functions in the different departments will remain therefore as heretofore, separate where hitherto disjoined, and united where hitherto held together. And beyond the unquestionable improvement of separating the criminal and civil jurisdiction of the provincial courts, which is the immediate consequence of the appointment of commissioners of circuit, we have not made any alteration in the tribunals appointed to administer civil justice, excepting in the case of a few districts in which vicinity to tracts of country superintended by officers possessing full revenue and judicial powers, and other circumstances, have suggested the extension, with some modification, of the plan that has been so long successfully followed in Cuttack.

5. We have abolished the offices of superintendents of police as no longer likely to be useful, in a degree commensurate with the expense.

6. The revision of the public sales, by which numerous land-owners in many of the districts of the conquered and ceded provinces have suffered much injury, is to be prosecuted by the revenue commissioners with the agency of the collectors or other subordinate revenue officers. And the special commission appointed under the rules of Regulation I. 1821, the operations of which have as yet been confined to Cawnpore and Allahabad, will therefore be superseded. The work of redress being carried on along with the settlement now in progress under Regulation VII. 1822, will, we trust, proceed more rapidly and at a less charge to Government. The subsidiary arrangements requisite for the adjustment of the various claims which have to be inquired into and settled, after the original wrong has been redressed, will, we doubt not, be more successfully effected; and it seems to be certain, that by a detailed settlement, several of the districts may be made to yield no inconsiderable addition to the public rental, with great relief to the bulk of the community and a full recognition of all private rights.

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7. We have at the same time made provision in those quarters in which the necessity of the measure is most urgent, for the prompt investigation and decision of cases wherein the revenue of Government is alleged to be appropriated by individuals without a valid title; employing for the purpose three able and experienced judicial officers as commissioners, under the rules of Third Regulation of the present year. Those officers will have no concern in the management of the revenues, and are to be relieved from any other judicial duties than those which attach to them under the above-mentioned law, to the execution of which therefore they will be entirely devoted.

8. Among the advantages of the plan, your honourable Court will observe, that it includes a provision for the superintendence and control of the officers employed in Arracan, of which, as you will perceive from the proceedings noted in the margin, the revenue administration has hitherto been far from satisfactory to us, and in regard to which province, we are still deplorably in want of the information necessary to a clear judgment. The same officer who is to perform that duty will likewise have the superintendence of Chittagong, and the adjacent country to the east of the Megna, where much remains to be done for the satisfactory adjustment of the rights of Government and of the people; to the accomplishment of which, hitherto postponed from year to year without any definite prospect of its completion, the presence of the commissioner will, we trust, essentially contribute.

Revenue Consultations:

12 October	1826,	No. 11 & 13.
14 June	1827,	No. 49 to 56.
28 June	„	No. 30
23 August	„	No. 18 to 21.
30 August	„	No. 57.
1 November	„	No. 23.
22 November	„	No. 6 to 13.
6 December	„	No. 27 & 28.
17 January	1828,	No. 23.
31 January	„	No. 36 to 39.
21 February	„	No. 10 to 14.
28 February	„	No. 15.
6 March	„	No. 25 & 26.
2 April	„	No. 9 & 10.
17 April	„	No. 10.
1 May	„	No. 12 to 26.
15 May	„	No. 16 & 17.
19 June	„	No. 1 to 3.
26 June	„	No. 8 & 9.
12 July	„	No. 8 to 12.
24 July	„	No. 7.
7 August	„	No. 9 to 13.
21 August	„	No. 19 to 21.
12 September	„	No. 7 & 8.
25 September	„	No. 10 & 11.
10 October	„	No. 20 to 42.

9. Mr. Scott, an officer of great experience and distinguished abilities, to whom the general administration of Assam and the management of the rude tribes who inhabit the hill country in our north-east frontier has for some years been confided, we propose to vest with the powers of a judicial and revenue commissioner in the district of Sylhet and a portion of Rungpore, where his services are likely to be productive of much public benefit.

10. We have likewise provided for the superintendence of the revenue and judicial offices of the Delhi territory, by a commissioner acting under the authority of the resident, whose other avocations do not allow of his going the circuit with the regularity that is desirable, nor of entering sufficiently into the details of the settlements and other proceedings of the principal assistants. Relieved from these duties, the resident will be able to assume the general superintendence of some of the districts of the Doab in the immediate vicinity of Dehlee; an arrangement from which we anticipate much advantage.

11. For a full explanation of the grounds on which we have resolved to adopt the above arrangement, we beg permission to refer your honourable Court to the several Minutes and other papers noted in the margin. It must be superfluous to repeat in this place the statements and observations contained in them. In so far indeed as concerns the Revenue department, the plan we have adopted will be found to differ little from that which your honourable Court has more than once suggested. And the alteration in the judicial establishments does not, you will perceive, involve any general or fundamental change of principle. Some change was absolutely indispensable to the fulfilment of the undeniable right of the subject, and the primary duty of the Government.

No.
1. Minute of the Governor-general.
2. Mr. Holt Mackenzie's Report.
   Appendix (A.) Plan of a Presidency Board.
   Appendix (B.) Statement referred to in the Report.
   Appendix (C.) Mr. Bird's Letter, dated 16 April 1828.
   Appendix (D.) Mr. A. Mackenzie's Letter of 13 Nov. 1827.
3. Mr. Bayley's Minute.
4. Sir Charles Metcalfe's Minute.
5. Sir Charles Metcalfe's Minute, dated 15 April 1828.
6. Mr. Bayley's Minute, 9th April 1828.
7. Mr. Swinton's Minute, 12th April 1828.
8. Memo. by Mr. Holt Mackenzie.
   Appendix (E.) Letter from Acting Collector of Allahabad, 6 February 1828.
   Appendix (F.) Letter from Collector of Allahabad, of 5 March 1828.
   Appendix (G.) Letter from Collector of Goruckpore, 2 April.
   Appendix (H.) Letter from Collector of Goruckpore, 3 April.
9. Memo. by Mr. Holt Mackenzie.
   Appendix (I.) Letter from Collector of Merut, dated 29 December 1827.
10. Resolution of Government.

12. The measures to be taken for the better administration of civil justice will form the subject of early deliberation in the Judicial department, from which we shall have the honour of submitting a detailed exposition of our views.

13. With the arrangement now reported, to which we propose to give effect as soon as the necessary details can be adjusted, we have resolved to combine a general revision of the allowances attached to the several offices that are held by your covenanted civil servants. The result will be communicated to you without delay in a separate Despatch.

11. Statement showing saving of expense.

14. In the mean time, the Statement (No. 11.) which is herewith transmitted, will show the present measure will be attended with some immediate and considerable ultimate saving; and the principle of curtailing the charges of our Government, as far as is possible consistently with its other paramount interests and the just claims of individuals, will be strictly observed by us in the revision of our civil establishments.

We have, &c.
(signed) *W. C. Bentinck.*
W. B. Bayley.
C. T. Metcalfe.

Fort William,
10th December 1828.

No. 1.—MINUTE of the GOVERNOR-GENERAL.

THE Governor-general seeing in the proceedings of Government reason to apprehend that the system at present in operation for the superintendence and control of the executive revenue

revenue officers is defective, and inquiry confirming the conclusion; I directed the secretary to Government in the Territorial department to report fully on the subject. I now lay before the Board the accompanying paper, which that officer has submitted to me in compliance with my instructions.

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Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

The arrangement therein suggested corresponds in principle with the plan of a principal, with subordinate collectors, existing at the Madras Presidency, in the ceded districts, under Sir Thomas Munro, the complete success of which appeared to me that time incontrovertibly established. Mr. Græme, who was then one of Sir Thomas's assistants, and may be considered as a high authority in revenue matters, informs me, that subsequent experience entirely confirmed the good of the system. The sanction of the Court of Directors was strongly expressed in favour of the arrangement, and I learn that the same authority has directed its introduction in Cuttack. I think there will be advantage in keeping more distinct the controlling and executive authorities, and I therefore very much approve of that part of the suggestions by which the commissioners are to be relieved from any part of the executive duties of a collector.

Before, however, coming to any final decision, I am anxious to learn the sentiments of my colleagues. And I should not wish to confine our deliberations strictly to the offices immediately connected with the Territorial department, if it shall appear to them that by a more comprehensive arrangement, we could advantageously combine the object of securing a more efficient system of revenue management with that which is above all important, the better and more prompt administration of civil and criminal justice; and I think this may be done without any sacrifice of established principle, if the revenue controlling and the revenue executive powers are kept distinct. I have seen with pain, that the files of the civil courts (those of appeal particularly) are loaded with arrears, and that in many instances the gaol deliveries have been injuriously delayed, and there is reason to apprehend that in the Barelly division especially, the judges of circuit cannot adequately control the magistrates and the subordinate police. It would be presumptuous, after a residence of a few months, to come to a decided conclusion upon so momentous a question. But if I were obliged to draw an inference from the facts and reports which each council brings more or less before us, as well as from the information received out of doors, I am afraid that I should be obliged to say that the administration of civil and criminal justice, if not a complete failure, was so defective and inefficient as to demand our instant and most serious attention; and I trust that Mr. Bayley, who is well versed with this subject in all its different relations, and who is very sensible of its defects, will have the goodness to consider and to suggest the means by which this undeniable right of the subject, and this primary duty of every Government, can be more completely fulfilled.

(signed) *W. Bentinck.*

No. 2.—Secretary's Report.

Having some time ago been desired by Mr. Bayley to state my opinion as to the expediency of modifying the constitution of the Revenue Board in the Western provinces, I was tempted to take the opportunity of submitting the sentiments I entertain in favour of a still further change of system, under persuasion that the established revenue and judicial system has, from inherent defect (above all, from the separation of the lines, and the want of popular institutions), essentially failed in securing for the people such a measure of good government as is at all worthy of our country, and that it has little or no tendency towards improvement; but partly from the oppressive heat of the weather, partly from the occupation of current business, and partly from other causes, which will readily occur to others without my avowal, I have found it more difficult than I thought it would have been to put my notions into a distinct shape. And such a change could not of course be thought of, without long and serious consideration; and even if I were much more certain than I am of the accuracy of my views, and had ample time fully to develope them, I could only have ventured to submit them as matter of inquiry.

Some change, however, in the constitution of the controlling revenue authorities seems to be very urgently required; and under the commands of your Lordship, I proceed to state what has occurred to me, confining my speculations to the officers immediately connected with the Territorial department. On the one hand, it seems to be indispensably necessary, that Government should be relieved from a portion of the references on which it is even now required to decide, by the institution of an authority that shall come between it and those who immediately direct and control the executive offices; and on the other hand, if the immediate supervision of the executive European officers is vested in deliberative Boards, trusting for their knowledge of facts chiefly to the reports of those whom they have to control, conducting their business for the most part through the medium of English correspondence, exercising authority over tracts exceeding in each direction many hundred miles, issuing their orders from the recess of a kutcherry situate in some corner of their jurisdiction, it seems to me quite certain that they will utterly fail to impose any effectual check to the grossest mismanagement. Things may indeed go on smoothly upon paper; we should obtain, in any quantity we require, periodical tributes of self-applause; we may even have the demonstration of good management which is afforded by an increasing rent-roll; but there will be no real security that our officers (even those who are thoroughly honest and zealous) are not occasioning much miserable distress and much cruel injustice. We shall have, as heretofore, under our best officers, multitudes of industrious men oppressed by an excessive demand, or robbed of their property through some abominable abuse; and in other cases, the most wasteful sacrifice of the Government dues in favour of a few.

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As recently expressed to me by a very intelligent officer, the vast majority of the collectors' acts, whether good or bad, "is absolutely unknown both to the Board and Government, and what does appear before them may, for aught they know, be either the result of the most laborious research, or of no research at all, but compiled by native officers, saving their European superiors all trouble but that of signature."

With the best possible system of control, indeed, it would be vain to hope for any thing like the full truth. Nobody knows it, at least nobody who will divulge it. But if we wish to come at all near it, we must compel our collectors to master all the details of the work done by their subordinates, and to authenticate what they do by an actual trial and by a real appeal to the parties interested. If this be done, and if moderation be our guiding principle, I feel confident that the difficulties which have been so artfully raised will speedily disappear. With the people once for us, all indeed must be plain sailing; our native officers will become what they ought always to be, and what most of them are excellently qualified to be, executive instruments directed by their European superiors, not the governors of those they profess to obey. The worst settlement then made will be a great improvement upon the past system, bestowing upon the people many real blessings in spite of all our blunders, which we shall gradually discover and correct. But Government and the subordinate controlling authorities must be prepared to do their duty to the people. There must be no mincing the matter of personal control and responsibility, and no slurring over the question of qualification. The collectors must be able to say, "I visited the village for such a time; I examined the boundaries, and found or made them settled and acknowledged by such persons and in such a manner; I had the field-book of the measurement in my hand; I adopted such means of testing the accuracy of its record, in regard to extent, soil and crops; I caused the different abstracts to be made in such a manner, by such and such mootsuddies; I can read the accounts readily; I compared the results and found them to agree; I examined personally such and such parties; I understood them and they understood me; the detailed assessment was made and checked, and verified in such a manner; it was fully explained to all interested, either directly or through their accountant. They agreed, and pottahs were issued, or if not, why."

The tehsildars' reports should show precisely what they did in controlling and checking the ameens; the collector's Roobakaree must be a *bonâ fide* minute of his actual proceedings.

But for the above purposes, we must have a controlling authority of corresponding energy, and (as far as the difference in extent of jurisdiction allows) equally accessible to the people.

It will not suffice to wait for complaints; those who complain are often the least likely to be injured.

In the matter of settlement, especially under the provisions of Regulation VII. 1822, the controlling authority should, I think, apply to the acts of the collectors the same kind of tests that collectors apply to the proceedings of tehseeldars, and tehseeldars to those of the measuring ameens. They should go upon the spot completely through the papers relating to a certain number of villages in each pergunnah, or other tract, with particular reference to the varieties of tenure and interest, which the preliminary inquiries may exhibit.

They should communicate personally and familiarly with their collectors, seeing exactly how they do their business, and especially ascertaining beyond the reach of question, that they can eventually do what on the records they presumed to do. When they find they cannot do so, they must teach them; where they cannot be taught, they must report them as destined for some easier duty. They will thus adjust a thousand matters of detail which otherwise will either never be adjusted, or the adjustment of which, through a formal written correspondence, will be tedious beyond measure. They should in short, I conceive, do, in regard to their collectors, almost every thing which was expected from the principal collector in his intercourse with his subordinates, when that appointment was experimentally introduced into Bundlecund. But they must have more distinct authority, and they must not be burthened, as Mr. Fane was, with a load of executive duty.

In the instructions which led to the experiment of Mr. Fane's appointment, the Court of Directors do not appear to have in any degree debarred the Government from exercising a considerable latitude in regard to details; and the more I consider the subject, the more am I satisfied that, if we would really establish an efficient system of control, the controlling and executive authorities should be kept distinct. A principal collector, really acting as such, must virtually direct every thing with almost all the same liabilities to err, as now beset our collectors in the heat and haste of the executive administration. A particular individual may possibly not err under such circumstances; but then all that can be said is, that in the special case no control is necessary. If he does err, as most men will do, he will, I apprehend, require for the correction of his errors as much more active supervision than can be exercised by a single deliberative Board.

I would therefore leave the executive officers very much as they are, excepting that deputies should be really such, doing what they are bid by their principals. And I would have the controlling authority altogether relieved from the executive management of the districts under them.

The sphere of their control must be much more limited than what is assigned to the Boards, that they may really know the country and be enabled frequently to visit the different divisions of it.

In the Western provinces, the proceedings of the collectors, in the exercise of the extensive judicial powers belonging to them, cannot be effectually controlled if we place under each controlling authority so wide a tract of country. And if the first mentioned class of officers

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are active in making settlements, we must, I think, have a separate authority of control for every five or six collectors. For besides the investigation and decision of individual complaints, and the special examination of a certain portion of each year's work, every village settled will involve the necessity of reading at least the Roobakary (or minute) of settlement, and of examining the general results afforded by the accounts of the assessment, so as to see that, on the face of the record, there is no reason to think that the rights of the people or those of Government have been neglected or sacrificed.

But such a scheme seems to require that the immediate control of the collectors should be vested in individual commissioners; for unless, by uniting the departments, we could call in the aid of the judges of circuit, the appointment of a sufficient number of Boards, though each consisting of two only, would occasion a heavy addition to the public charges; and even with the aid of the judges of circuit, it would be necessary that each member of the Boards employed in the immediate supervision of the collectors should separately undertake the details of a certain number of districts.

The employment of single commissioners in the necessary number must of course add to the urgency of providing relief for Government, by the institution of an intermediate authority; and such commissioners it will probably be thought proper to subject to a degree of supervision, which Government could scarcely exercise, even if it had the requisite leisure.

In considering the means of providing, without additional expense, the necessary number of local commissioners and a superior Board, I have reverted to the conclusion I had already drawn, that the place of the special commission, acting under the rules of Regulation I. 1821, might be advantageously taken by the revenue authorities. As far as concerns the circumstances of the sales, the investigation of the cases tried by that commission appears to be generally easy; so that the revenue commissioners, using the instrumentality of the collectors and their officers, when they see fit for purposes of local inquiry, might, I conceive, without difficulty undertake the trial of them. And in regard to the more intricate claims of the joint proprietors that have to be settled when sales are annulled, I am more and more persuaded that they can be adjusted satisfactorily only after a field measurement and individual assessment, with a detailed census, and all that should be done in making settlements under Regulation VII. 1822, and this done on the spot and amidst the people.

If then the three Mofussil commissioners, in addition to the nine members of the Board, be considered available for the duty of controlling the executive revenue officers, there will be no difficulty in providing the necessary number of local commissioners and the members of the Sudder Board without any increase of expense.

It has appeared to me as advisable to include the Dehlee territory in the plan, because I believe that the commissioner in the northern Doab may afford the resident considerable aid in controlling the principal assistants. And Sir Edward Colebrooke some time ago expressed his willingness, in return for such aid, to take upon himself the decision of cases in the Doab, which Mr. Fraser has now to refer to Barelly, and then eventually to Furruckabad. It may probably be thought best to keep all the regulation provinces under the Presidency Board, of which indeed the jurisdiction may eventually be with advantage extended; and there will be no practical difficulty in arranging the matter in whatever way may be deemed best.

It has also seemed to me that it would be advantageous to give the commissioners in Assam and Arracan (I mean of course, in the latter, the controlling commissioner whoever he may be,) authority over the districts adjoining to those provinces, and to extend the revenue jurisdiction of the commissioner in Cuttack to the whole district of Midnapore, (he now exercises the powers of the Revenue Board in Hidgelee,) giving Bhangulpore, Purnea and Dinagepore, to the Patna division; (they were once with Rungpore, under the Benares and Behar commission;) the remaining districts of Bengal may very well be managed by two commissioners. The annexed Statement (A.) will show the scheme that has occurred to me; few more observations seem to be necessary in explanation of it.

Note.—I also annex a Statement (B.) explanatory of the General Scheme to which I referred in the beginning of this Note.

I will only add, that any one who shall proceed from the most remote of our western districts to the province of Rohilcund, and thence crossing the centre of the Doab into the country of the Bondelas, must be forcibly struck with the varieties which the character and social relations of the people, no less than the physical circumstances of the regions themselves, present; and will cease to wonder that gross errors were committed, when one plan and the partial experience of one place were employed in the regulation of their revenue affairs; still more will the necessity of a considerable variety of scheme and a proportioned variety of agents become apparent, if again entering the Doab in the vicinity of its termination at Allahabad, we cross over to Goruckpore, and thence pass through the fertile regions of Benares and Behar into the alluvial plains of Bengal.

With respect to the precise powers to be exercised by the local commissioners and the superior Board respectively, I have some hesitation in submitting any decided opinion.

The case is one, perhaps, in which it is best to let rules arise out of practice.

Whatever a collector can do of his own authority, that he ought to do when ordered by the commissioner who is over him.

And the superior Board should look more to general control and special interposition on appeal, when *primâ facie* it may appear that wrong has been done or right withheld, than to a minute intermeddling with individual cases.

A good groundwork for more detailed rules will be found in the Letter of the Central Board, relative to the powers and duties which they proposed to confide in Mr. Fane, as principal collector, and which were objected to only because they appeared to go beyond

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the plan then experimentally contemplated. That paper and the orders issued by Government on the occasion are annexed for the convenience of immediate reference.

I shall briefly notice a few points.

Settlements.—The commissioners should report to the Board, for eventual reference to Government, all orders issued or decisions passed by them on important points of general application, whether relating to the rate, or mode of assessment, or to the system of management to be pursued, or to the special privilege, if any, to be allowed to particular classes.

Each year, by the month of October, the work done by each collector in the preceding season should be reported, with the required statement by the commissioners to the Board, and by the latter to Government; the Board should be furnished, for eventual reference, with the Minutes (roobakaree) of settlement for each village, and with all the printed forms. It may be sufficient if they submit to Government the abstract Statements, No. 1, 2, 3 & 4.

Remissions of revenue will of course require the sanction of Government, and suspensions should not be continued without its authority beyond the current year. Suspensions allowed by the local commissioners should immediately be reported to the Board.

Sales in the Western provinces are now happily very seldom made. Their final confirmation had better, I think, still be reserved to Government; for they may operate as a severe forfeiture in individual cases, and if numerous, may affect the peace of the country. The local commissioners may certainly be allowed to authorize the usual advertisements in all the provincial and in the permanently settled districts; it may be sufficient to give the Board a power of special appeal merely. There indeed the sale statements of many districts are of such enormous bulk, that practically, I believe, the transmission of them to the Board is an useless and cumbrous form.

Sales under decrees of court should, I think, be made by order of the local commissioners, with reference either to the Board or to Government. But it may be useful and interesting to get quarterly statements of such sales.

Petitions of Suit.—Persons deeming themselves aggrieved by the acts of the revenue authorities should, I conceive, be authorized to sue in the courts for redress, if denied by the local commissioner, leaving it to them, however, still as now to prefer as special appeals to the Board of Revenue and to Government.

Petitions connected with the Revenue Management.—No change should be made in the management of villages, excepting the necessary transfers on deaths and the like, or when all the parties interested agree, without a report to the Board. But the order of the local commissioner should suffice to give possession intermediately when the matter is one within the cognizance of the revenue authorities.

Pensions.—The confirmation of all hereditary pensions should, I think, be by Government. The local commissioners should decide on life pensions, when the amount is within that which leaves the cognizance to the Board, and the Board should decide upon those of a larger amount. Both should submit quarterly statements of all such decisions.

Rent free Grants and Claims.—The decision of the local commissioners should be sufficient in cases when they are for resumption, the parties having an appeal to the courts or to the special commission.

Butwarrahs should be made under orders of the local commissioners, periodical reports being furnished to the Board. But the whole matter of these partitions requires revision.

Forfeitures should not be enforced without orders from Government, to which indeed the disposal of the property forfeited naturally belongs.

Defaulters.—The orders of the local commissioners should be final in respect to the issue of process against the person of revenue defaulters, and the release of them from gaol; periodical statements of all prisoners being sent to the Board, to which should belong the power of special interference.

Towjhees.—The monthly towjhees of the collectors should be furnished to the local commissioners; the Board will get corresponding statements in abstracts from the accountant's office at the Presidency quarterly, or at such other periods as they may desire.

The local commissioners should have the same power as now belongs to the Board, in regard to all the native officers of the collectors' appointments resting with the latter. But all changes should be periodically reported to the Board; and the collectors should be prevented as far as possible from carrying with them favourite officers from one district to another.

Internal Management of Collector's Office, &c.—In this the local commissioners will not often have occasion to interfere, but when they do so, their orders and instructions should be at once obeyed.

The authority of the local commissioner should suffice for *disbursements* ordered by a regular decree of court, quarterly statements of all such being sent to the Board.

Contingent charges, not exceeding 100 rupees, to be sanctioned by local commissioners, but statements of all such to be sent to the Board.

The Board to be empowered to pass charges to the amount of 500 rupees, similarly sending statements to Government.

The settlement of the Abkare Mehal to be made under the orders of the local commissioners; but when concluded to be reported to the Board; and no farms for more than one year to be granted without the authority of the Board.

The accounts of all Khas estates, and those under the Court of Wards, to be examined and audited by the local commissioners, who will furnish such statements in regard to them as may be required by the court, and will remit through the Board all money belonging to wards that are to be invested in Company's paper by the Government agents.

Fines.

Fines.—The rules regarding fines imposed by the Revenue authorities require, I think, to be revised. But in the mean time, the local commissioners should exercise the powers now belonging to the Board in that behalf, subject to a special appeal to the Board, and to the obligation, of course, of reporting to that authority all fines requiring the sanction of Government for their realization, which the Board should be authorized to remit without reference, when they may think that the penalty has been improperly imposed.

Alterations in the fixed establishment will, as heretofore, be made under the authority of Government, and all propositions to that effect must consequently be reported to the Board.

The allowances of some classes, the thesildars for instance, should, I think, be revised. They are liberal, but not proportionate to the labour and responsibility attaching to the management of the several subdivisions. Long service when good should be considered, and new men introduced by new collectors should come in at the bottom of the list.

In regard to the investigation and decision of the cases described in Regulation I. 1821, the local revenue commissioners should exercise the powers of the Mofussil commissioners acting under that law, using however more extensively the agency of the collectors and punchayets or juries.

The Board at the Presidency may hear appeals as the Sudder special commission now do; but I think the appeals should be special, that is to say, they ought only to be admitted when, on perusing the petition of the parties and the decree of the local commissioner, there is reason to doubt whether justice has been done: this especially when the decisions may be for the annulment of those sales which have been such a curse to the country and such a disgrace to our Government.

I am strongly inclined also to recommend, that the powers of the commissioners for the redress of injuries sustained through the operation of such sales and errors of record should be extended to more recent cases than those which fall within the jurisdiction of the special commission. I fear it was somewhat too hastily assumed, that the administration of latter years did not require such a corrective, and that the denial of redress by the commission, in cases wherein possession was lost subsequently to the year 1217, has been regarded as arbitrary and unjust, and has operated to maintain much wrong that would have been easily redressed.

On this subject I annex (C.) some papers received a short time ago from Mr. W. W. Bird.

The English correspondence of the local commissioners should be kept in the simple form of books of letters received and letters sent, for each of the districts under them, and each of the authorities within which they correspond: a miscellaneous book being reserved for papers that cannot be so classed. Copies of these books should be sent down to the Board monthly, or as often as convenient opportunities offer.

Copies of all Roobakaries of settlement, as well as those relating to claims to rent-free land, should also, I think, be furnished to the Board for perusal and eventual orders, with indexes of all other orders passed in the native languages. Of course such other Persian papers will be sent as may be especially required; and generally, we must, I imagine, be contented to build up rules of practice as the necessity for them arises. It is sufficient if the people know what they have to do, and what to shun in their relation with their governors whom they are to obey, and what orders they may legally resist, where they must seek for redress if aggrieved, and what course they must follow to procure it. With the detail of provisions designed merely for the instruction of our officers in their official relation to each other, the community have little concern, if the general result be such as to produce the greatest practicable sum of good; and for this purpose obedience and discipline in our body (I mean the civil service) is the first thing wanting.

(signed) *H. Mackenzie.*

(A.)

PROPOSED DISTRIBUTION of the COUNTRY into DIVISIONS, to be placed under separate Revenue Commissioners, each to have a Covenanted Assistant.

DIVISIONS.	DISTRICTS.	Assessment.	TOTAL.	REMARKS.
I. North Dooab and Delhi.	Seharunpore -	9,49,494		
	Mozuffurnuggur (Dy)	5,86,600		
	Meerut - -	15,11,297		
	Boolundshuhur -	7,10,982		
	Delhi - - -	31,19,050		
			68,77,423	- - Delhi may still remain under the Resident, as now, he holding towards the local Commissioner the same authority as the Calcutta Board elsewhere. In this arrangement Sir E. Colebrooke expressed his concurrence. If Delhi be left out of the scheme, a partial alteration in the other divisions would be expedient.
II. Agra - -	Allygurh - -	15,66,583		
	Sydabad - -	11,51,257		
	Agra - - -	21,80,875		
	Etawa - - -	12,26,295		
	Etawa (Dy) - -	6,95,270		
			68,20,280	
III. Rohilcund -	Barelly - -	14,32,996		
	Pillibheet - -	5,00,620		
	Shahjehanpore -	12,88,345		
	Suswan - -	9,76,884		
	Moorshedabad -	9,96,857		
	Nugeenah - -	15,36,808		
	Kumaon - -	2,03,066		
			67,32,510	

(continued.)

Appendix, No. 3.

Commissioners of Revenue and Circuit.

PROPOSED DISTRIBUTION of the COUNTRY into DIVISIONS, &c.—*continued.*

DIVISIONS.	DISTRICTS.	Assessment.	TOTAL.	REMARKS.
IV. Furruckabad -	Sirpooru (D^{y}) -	4,64,092		
	Furruckabad -	9,05,092		
	Belah - - -	5,72,916		
	Cawnpore - -	27,11,310		
	Futtehpore - -	13,08,640		
			59,11,520	
V. Allahabad -	Calpee - -	17,05,382		
	Calpee (D^{y}) - -			
	Banda - -	17,97,879		
	Banda (D^{y}) - -			
	Allahabad - -	18,86,258		
			53,89,519	
VI. Benares -	Benares - -	18,29,364	- - -	-- The Commissioner for this division might advantageously superintend the affairs of the Raja of Benares' family domain.
	Jounpoor. - -	17,65,750		
	Goruckpore - -	7,86,205		
	Ghazeepore - -	17,75,235		
	Azimghur - -	included in above.		
			61,56,556	
VII. Patna - -	Shahabad - -	12,83,151		
	Sarun - - -	14,93,447		
	Tirhoot - -	17,70,115		
	Patna - - -	3,76,426		
	Behar - - -	17,19,752		
	Ramghur - -	1,64,743		
	Bhagulpore - -	6,49,925		
	Poornea - -	10,35,411		
	Dinagepore - -	17,56,521		
			1,02,49,491	
VIII. Calcutta -	Rajeshahye -	15,07,094		
	Moorshedabad -	11,95,335		
	Beerbhoom - -	6,91,876		
	Burdwan - -	28,45,935		
	Jungle Mehals -	4,38,209		
	Nuddea - -	10,29,163		
	Jessore - -	11,81,653		
	24 Pergunnahs -	9,09,018		
	Calcutta - -	65,519		
	Soonderbuns -	3,95,545		
	Bakergunge - -	7,81,809		
			1,10,41,153	
IX. Cuttack -	Cuttack - -	15,00,281		
	Midnapore - -	15,16,262		
	Hidgillee - -	3,69,369		
			33,85,912	
X. North-east Frontier.	Assam - -	10,158		
	Rungpore - -	11,14,942		
	Mymensing - -	7,56,813		
	Sylhet - -	3,03,513		
	Dacca - - -	4,08,223		
			25,93,649	
XI. South-east Frontier.	Arracan - -	4,97,411		
	Chittagong - -	5,27,314		
	Bullooa - -	5,00,469		
	Tipperah - -	8,10,341		
			23,35,535	
			6,74,93,648	

ESTABLISHMENTS.

General Board of Revenue at the Presidency.

3 Members.
2 Secretaries.
2 Covenanted Assistants.

The Members of the Board of Revenue to receive each 55,000 rupees, the allowance of a Puisne Judge of the Sudder Dewanny and Nizamut Adawlut.

Their Senior Secretary, 30,000 rupees.

Their Junior ditto, (as at present in the Board of Revenue, Lower Provinces,) 24,000 rupees.

Their Assistants, 9,600 and 6,000 rupees.

The

The Commissioners in the N. E. and S. E. Frontier, and the three Senior Local Commissioners employed elsewhere, to receive 45,000 rupees.
The other Local Commissioners, 40,000 rupees.
Their Assistants, 6,000 rupees.
The three Senior Members of the present Boards to form the Presidency Board.
The other Members and Special Commissioners to be employed as Local Commissioners.
Salaries of individuals who now draw more than proposed allowance, to be continued to them.

Expense of the above Plan.

	LOCAL COMMISSIONERS.	PRESENT SALARIES.	ALLOWANCES ultimately to be assigned to the Situation..	REMARKS.
	1	(A.) 52,000	45,000	(A.) Mr. H. Fraser receives this salary.
	2	(B.) 50,000	45,000	(B.) Mr. Fergusson - - ditto.
	3	(C.) 40,000	40,000	(C.) Mr. Marjoribanks receives 46,000, but as he is about to leave the country immediately, I have not made provision for the 6,000 which is personal to him.
	4	40,000	40,000	
	5	40,000	40,000	
	6	40,000	40,000	
	7	40,000	40,000	
22	8	(D.) 45,000	45,000	(D.) Mr. W. Money receives this sum.
	9	(E.) 45,000	40,000	(E.) Mr. Pakenham - - ditto.
	10	(F.) 52,000	45,000	(F.) Mr. D. Scott - - ditto.
	11	(G.) 59,800	45,000	(G.) Mr. Blunt - - - ditto.
	Eleven Assistants	66,000	66,000	
	TOTAL	5,69,800	5,31,000	
	Presidency Bd Member 1	(H.) 57,412	55,000	(H.) Mr. Hawkins draws this sum. I am disposed to recommend that it be raised to 60,000 rupees, to put him on the footing of the Chief Judge of the Sudder Dewanny and Nizamut Adawlut.
	2	1,10,000	1,10,000	
	Secretary - 1	30,000	30,000	
	1	(I.) 24,000	24,000	(I.) The Junior Secretary should also receive the same miscellaneous allowances as are now drawn by the Secretary of the Lower Board.
7	Assistants 2	15,600	15,600	
29		2,37,012	2,34,600	
	GRAND TOTAL	8,08,012	7,65,600	

Present Charges.

	Western Board	3 Members	1,49,412	
	Covenanted Officers	Secretary	22,965	
9		Sub-Secretary	13,779	
		4 Assistants	19,200	
		Surgeon	6,000	
				2,11,356
	Central Board	3 Members	1,45,000	Excluding 6,000 rupees personal allowance of Mr. Marjoribanks.
7		Secretary	24,000	
		Sub-Secretary	13,779	
		2 Assistants	9,600	
		Surgeon	6,000	
				1,98,379
	Lower Board	3 Members	1,40,000	With some additions, which I have omitted above, and therefore omit here.
7		Secretary	24,000	
		Sub-Secretary	9,600	
		2 Assistants	9,600	
				1,82,200
3	Mofussil Commission, 3 Members			1,20,000
1	Cuttack Commissioner			45,000
1	Commissioner and Governor-general, Agent N. E. Frontier			52,000
1	Arracan Special Commissioner			59,800
				8,69,735

29 viz. 15 Members of Boards and Commissioners, and 14 other Civil Servants; the Proposed Plan gives 14 of the first, and 15 of the last class.

Immediate Saving - - - - R^s 41,000
Ultimate Saving - - - - 1,32,000

Appendix, No. 3.

Commissioners of Revenue and Circuit.

It is to be remarked, that Mr. Scott (the political agent, N. E. frontier) has two military officers under him, receiving Rs 16,200, so that it may not be necessary to give him a covenanted civil servant as an assistant. I might also, perhaps, fairly take credit for the assistant whom, under the present system, the commissioner in Cuttack requires. As to uncovenanted and native establishments, I should hope that under a simple system of keeping the proceedings and records, and with the diminished number of references to Government on cases of little importance, the expense ought rather to be reduced than increased.

Eventually the following collectorships at the sudder stations, of which the commissioners would have their office, when not in tents, may admit of considerable reduction:

Barelly allowances	32,500
Furruckabad	30,000
Allahabad	43,000
Benares	45,000

If Mr. Blunt's appointment were to cease, and another local commissioner were appointed in his room, the immediate saving would be more considerable, for in that case we might take credit for all that is paid to Mr. Blunt's substitute in the sudder court. But if a commissioner for Arracan over Mr. Paton be thought unnecessary (the office seems to me to be indispensably necessary, though the cost is now expensive), then the realization of the stated saving must depend on the necessity or otherwise of appointing a commissioner to the eastern districts of Bengal, whose salary would consume the immediate saving within 1,000 rupees, and we should not be entitled to take credit for the saving consequent on Mr. Blunt's return to the sudder, which would then not depend on the adoption or rejection of this scheme.

So, also, if Mr. Scott were not to take the four districts I have proposed to assign to him, and it thence became necessary to have three instead of two commissioners for Bengal.

(B.)

PROPOSED DISTRIBUTION of the WESTERN PROVINCES into DIVISIONS, each to be placed under two Commissioners exercising the powers of Judges of the Provincial Court of Appeal and Circuit along with those of Revenue Commissioners, and each Commissioner to be specially responsible for the Affairs of a distinct portion of the Division.

DIVISIONS.		DISTRICTS.	Assessment.	DISTRICT OFFICERS PROPOSED.	Number of Officers.	Allowances.	Present Establishments. Number Employed.	Present Establishments. Allowances.
I. N. DOOAB AND DELHI.								
Northern Circle.	Southern Circle.							
		Delhi	31,19,050	1 Judge, at 32,400; 5 Collectors and Magistrates, 3 at 28,600, 2 at 25,000	6	1,68,200	6	1,70,000
Rohtuck and Hansi	Delhi	(A.) Seharunpore	9,49,994	1 Collector and Magistrate, at 28,600; 1 ditto, at 14,000	2	42,600	3	62,556
Keeraul	Googaons	Mozuffernugger	5,86,600	1 Collector and Magistrate, 24,000	1	24,000	1	19,728
Seharunpore	Boolundshahur	Meerut	15,11,297	1 Judge, 32,400; 1 Collector, 1 Magistrate, 28,600; Deputy, 14,000	3	75,000	4	81,560
Mozuffernugger	Meerut	Boolundshahur	7,10,982	1 Collector and Magistrate, 28,600; Deputy, 14,000	2	42,600	2	37,726
			68,77,923		14	3,52,400	16	3,71,570
II. AGRA.								
Northern Circle.	Southern Circle.							
		Allygur	15,66,583	1 Judge, 1 Collector and Magistrate, 1 Deputy	3	75,000	3	66,806
(C.)		Sandabad	11,51,257	1 Collector and Magistrate	1	28,600	1	25,920
N. Agra	S. Agra	Agra	21,80,875	1 Judge, 2 Collectors and Magistrates, 28,600–25,000; 2 Deputies, at 14,000 and 9,600	5	1,09,600	4	1,20,634
Allygur	Etawa	Mynpooree	12,26,295	1 Magistrate and Collector, 1 Deputy	2	42,600	3	66,784
Sydabad	Mynpoor	Etawa	6,95,270	1 Magistrate and Collector	1	25,000	1	18,810
			68,20,280		12	2,80,800	12	2,99,044

PROPOSED DISTRIBUTION of the WESTERN PROVINCES into DIVISIONS—*continued.*

DIVISIONS.		DISTRICTS.	Assessment.	DISTRICT OFFICERS PROPOSED.	Number of Officers.	Allowances.	Present Establishments. Number Employed.	Allowances.
III. ROHILCUND.								
Eastern Circle.	Western Circle.							
	(D.)	Barelly -	14,32,996	1 Judge, 1 Collector and Magistrate, 1 Deputy -	3	75,000	3	83,278
		Pillibheet -	5,00,620	1 Collector and Magistrate	1	25,000	1	20,412
Barelly -	Suswan -	Shahjehanpore	12,88,345	1 Collector and Magistrate, 1 Deputy - - -	2	42,600	2	47,686
(E.) Shahjehanpore	Moradabad -	Seswan -	9,76,884	1 Collector and Magistrate	1	28,600	1	25,716
Pillibheet -	Nugeena -	Moradabad -	9,96,857	1 Judge, 1 Collector and Magistrate - - -	2	61,000	4	78,840
Kumaon -	- - -	Nugeena -	15,36,800	1 Collector and Magistrate, 1 Deputy - - -	2	39,000	1	25,248
		Kumaon -	2,03,066	1 Commissioner - -	1	30,000	1	30,000
			69,35,568		12	3,01,200	13	3,11,362
IV. FURRUCKABAD.								
North Eastern Circle.	South Eastern Circle.							
		Sirpoora -	4,64,092	Collector and Magistrate	1	25,000	1	12,864
	(F.)	Furruckabad	9,05,092	Judge, Collector and Magistrate, Deputy - -	3	75,000	4	85,485
Sirpoora -	E. Cawnpore	Belah -	5,72,916	Collector and Magistrate	1	25,000	1	19,164
Furruckabad -	W. ditto -	(B.) Cawnpore -	27,11,310	Judge, 2 Collectors and Magistrate, 28,600; 24,000 Deputy - -	4	99,000	4	1,04,439
Behad -	Futtehpore -	Futtehpore -	13,08,640	Collector and Magistrate, Deputy - - -	2	42,600	2	58,128
			59,62,050		11	2,66,600	12	2,80,080
V. ALLAHABAD.								
Southern Circle.								
(G.) S. Allahabad	N. Allahabad	Calpee and Humerpore	17,05,382	Judge, Collector and Magistrate, Deputy - -	3	75,000	4	75,334
Banda, S. -	Humerpore	Banda -	17,97,879	2 Collectors & Magistrate, 1 Deputy - - -	3	64,000	4	79,500
Banda, N. -	Calpee -	Allahabad -	18,86,258	Judge, Collector and Magistrate, 2 Deputies -	4	85,400	4	1,13,000
			53,89,519		10	2,24,400	12	2,67,834
VI. BENARES.								
		Mirzapore -	18,29,364	Judge and Magistrate, Collector, Register - -	3	68,778	3	82,200
Benares -	Goruckpore	Benares -	17,65,750	Judge and Magistrate, Collector, Deputy & Register	5	1,03,000	5	1,14,000
(H.) Mirzapore -	Azimghur -	Jounpore -	7,86,205	Collector and Magistrate, Deputy - - -	2	42,600	3	62,200
Jounpore -	Ghazeepore	Goruckpore	17,75,253	Collector and Magistrate, Deputy - - -	2	42,600	3	71,000
		Ghazeepore	- -	Collector and Magistrate, Deputy - - -	2	42,600	4	72,300
		Azimgur -	- -	Judge, Collector and Magistrate, Register - -	3	67,000	1	12,000
			61,56,554		17	3,66,578	19	4,13,700
				GRAND TOTAL - -	76	17,91,978	84	19,43,590

Appendix, No. 3.

Commissioners of Revenue and Circuit.

The average of the salaries of the district officers on the above plan, agrees very nearly with that of the allowances now drawn, though the distribution is different.

To the senior division commissioners, I would propose to give 45,000 rupees; to the juniors, Rs 40,000. The expense of the six commissioners will then amount to Rs 5,10,000, twelve men being required to fill them. If we attach to each an assistant on a salary of 1,000 rupees a month, the charge will be Rs 5,82,000.

Now we have in the western provinces six members of Boards, three special commissioners, nine judges of circuit, in all 18 officers, drawing an aggregate of Rs 7,78,000, and it is certain that the Barelly court at least cannot overtake its business. If to the above we add Rs 1,15,735 for the secretaries, sub-secretaries, assistants and surgeons of the Boards, we have a total charge of Rs 8,93,735, or Rs 3,11,735 above that of the proposed commissioners, and the saving in the district establishments being Rs 1,51,612, there is altogether a prospect of ultimate retrenchment to the extent of Rs 4,63,347. The Behar districts might, I conceive, without inconvenience, revert to the Presidency Board of Revenue, even though that authority should not be relieved from the charge of the eastern districts adjoining to and beyond the Berhampooter.

We should then have ample funds to provide for what is much wanted, a sudder commission for the affairs of the western provinces, to be stationed at the Presidency: who should exercise along with the powers of the Sudder Dewanny and Nizamut Adawlut those of head Revenue Board, acting in immediate communication with Government, as the chief Judicial and Revenue authority must do, if we would hope for any thing like a good settlement of the country, or the establishment of a good system of civil government.

Three members would, I imagine, suffice. They should have a register in the Judicial, and a secretary in the Revenue department. The probable charge may be stated as follows:—

Senior Member	Rs	60,000
2 Junior ditto (at 55,000)		1,10,000
Register and Secretary (30,000)		60,000
2 Assistants (9,600)		19,200
TOTAL		2,49,200

And from this we may deduct at least 55,000, the salary of one of the sudder judges; 1,94,200 rupees is the remaining charge. So that even supposing it to be thought necessary to have three instead of two members in the local commissions, there would still be a considerable saving; and this, after providing what seems to me very desirable, a controlling authority in the Delhi territory between the resident and the principal assistants, the resident to be supreme as a judge of the sudder and revenue of the chief.

orir.

Independent of considerations of economy, the advantages of the scheme may be thus summarily stated:—

Superior knowledge in all officers, whether executive or controlling.
More efficiency in the controlling authorities in both departments, Revenue and Judicial.
Prompt punishment of the guilty; prompt release of persons falsely accused.
Consistency of views and principles and actions.
Increase of power to European officers, with proportionate increase of checks to its abuse.
Decrease of litigation, lying and fraud.
Diminution of labour, now uselessly expended in doing and undoing.
Gradual establishment of popular tribunals through increase of knowledge in the European functionaries.
Probable prevention of the disunion and demoralization in progress throughout the provinces.
More justice to the people, more strength to Government.

Notes.
(A.) (B.) The districts from (A.) to (B.) are under the single court of circuit at Barelly, whereas Lord Cornwallis thought that six, or at most seven districts, bearing an average assessment of Rs 61,00,000, a proper sphere of jurisdiction for a provincial court. The consequences are, that common humanity has been often outraged by the inordinate* detention of persons (C.) under commitment for trial; that a (C.) large proportion of those committed are acquitted; that there is comparatively little or no appeal, either in civil or criminal cases, and that the judges hurrying through the circuit know little, and care but little, about the people. It would be very advisable, I think, to have a magistrate and collector for the northern part of Agra, above Mutra. The country is very populous, and is the seat of much commerce. Smuggling of salt is said to thrive for the want of control. Possibly some of the southern divisions of Delhi might be advantageously annexed.

(D.) Some

* *Note.*—Inquiring at Seharunpore, I found that the two Sessions of 1823 had commenced at the same time, and this so late as May 1824; and that the two Sessions of 1824, with the first of 1825, were postponed till December of the last year. Acquittals were to convictions as 36 to 30.

Appeals from the magistrate's orders averaged only about 8 in the year.

In four years there had been 67 appeals from 360 civil decrees, but of the cases appealed only three had been determined, the whole of the regular civil suits decided by the Barelly court being less than 78 per annum.

Appendix, No. 3.

(D.) Some pergunnahs of Suswan, which are within the Dooab, should be restored to the district to which they originally belonged; and the station of the magistrate and collector should certainly be fixed at the town of Budaon. (D.)

(E.) I have put this district here, in order to keep Rohilcund together. But it ought to be transferred to the Furruckabad division, and then Futtehpore should be given to Allahabad. (E.)

(F.) There should be a magistrate and collector for that portion of Cawnpore which touches the Jumna. In the Custom department, too, the appointment would, I doubt not, relieve the fair trader, and prevent smuggling. It would not, however, I think, be necessary for the magistrate and collector always to reside on the spot. (F.)

(G.) So also there should be a deputy-collector in those parts of Allahabad which lie south-west of the Jumna; and the portion of Bundlecund between Colinger and Allahabad should likewise, I think, be under a distinct officer. (G.)

(H.) I have fixed on Azimghur as the place where, I think, a civil judge would best be stationed for the business both of that chuckla and for Goruckpore and Ghazeepore; relieved from the charge of the magistracy and from the summary civil jurisdiction which will belong to the collectors and magistrates, a single judge would, I conceive, suffice, aided as he may be by natives. For regular suits, distance of place is not of so much consideration; and even if the civil tribunals were more remote than they are, it would be the detention at the station, whether near or far, which results from delay in decision, more than the journey of an additional day or two, of which the people would have to complain. This remark applies generally. (H.)

The annexed Statement of the civil suits decided and depending in the Barelly and Benares provinces, made up from the latest papers I have with me, will, I conceive, evince that abundant provision is made for the civil business of the North Doab and Agra divisions, by the appointment of two judges to each; and that the judges may find some time for the purposes of general supervision.

In Rohilcund, I am rather disposed to think that one civil judge might suffice, the collectors and magistrates exercising summary powers in cases touching land and rent, and the agency of native judges being duly employed in the primary trial of other suits.

In the Furruckabad division, the Cawnpore judge might possibly be somewhat pressed, if Futtehpore were added to his jurisdiction; and that district may more properly belong to Allahabad.

When, however, judges are relieved from the turmoil and interruption of the police, and of the magistrate's court, they will soon, I imagine, be found capable of getting through much more business than they now do in a given time, and their control over the native judges will be infinitely more efficient.

This leads me to think that a judge at Jounpore will not be required, and that one such officer may suffice for Goruckpore and Ghazeepore; though the file of those districts is very heavy. Good Revenue management and prompt decision of summary suits will soon, I imagine, diminish litigation in both.

In the lower provinces it seems to be advisable, with certain special exceptions, to leave the existing system, for the present at least, unchanged. The perpetual settlement has there taken from our Revenue officers all power and influence, and has left few motives to the acquisition of knowledge. The Judicial authority is every thing.

It would, however, be useful to have a Presidency Board and local commissioner. And if adopting this scheme, we exclude Benares from the above scheme, and the Revenue administration only of the province were modified, along with that of Behar, Bengal and Orissa, we might have the following result, reducing the strength of the Benares court, in consequence of the separation of Bundlecund and Allahabad.

PRESENT CHARGE.

Western Board	2,11,356
Central Board	1,98,379
Lower Board	1,83,000
Mofussil Commission	1,20,000
Cuttack Commission	45,000
Governor-general's Agent, North Eastern Frontier	52,000
Arracan Special Commission	59,800
	8,69,735
Barelly Court	1,67,000
Carried forward — TOTAL	10,36,735

Appendix, No. 3.

Commissioners of Revenue and Circuit.

Brought forward - - - -		10,36,735
PROPOSED COMMISSIONERS, WESTERN PROVINCES, with Revenue and Judicial Powers.		
5 at 45,000 - - - - - - - - -	2,25,000	
5 at 40,000 - - - - - - - - -	2,00,000	
REVENUE COMMISSIONERS, LOWER PROVINCES.		
1 for Benares - - - - - - - - -	45,000	
1 for Patna - - - - - - - - -	40,000	
1 for Calcutta - - - - - - - - -	40,000	
1 for Cuttack - - - - - - - - -	40,000	
1 for N. E. Frontier - - - - - - - -	45,000	
1 for S. E. Frontier - - - - - - - -	45,000	
	6,80,000	
Add—		
For 5 Assistants, at 12,000 - - - - - -	60,000	
For 5 ditto - - - 6,000 - - - - -	30,000	
		7,70,000
		2,66,735
Add, for Saving in District Establishments - - - - -		1,74,400
TOTAL SAVING - - -		4,41,135

If for the Western Provinces it is desired to have a Sudder Commission of 3 Members, with Judicial and Revenue powers, and a Revenue Board at the Presidency of two Members for the Lower Provinces, we should still be able to provide for the arrangement with a considerable saving. Thus:

SUDDER COMMISSION:		
3 Members - - - - - - - - -	1,20,000	
2 Register and Secretary - - - - - - -	60,000	
2 Assistants - - - - - - - - -	12,000	
		1,92,000
PRESIDENCY BOARD:		
2 Members - - - - - - - - -	1,10,000	
Secretary (with Fees) - - - - - - - -	24,000	
		1,34,000
TOTAL - - -		3,26,000
Deduct—		
1 Sudder Judge - - - - - - -	55,000	
2 Judges of Benares Provincial Court - - -	72,000	
Sudder Special Commission, say - - -	50,000	
		1,77,000
		1,49,000
ULTIMATE SAVING - - -		2,92,000
		4,41,000

If the Sudder Commission had jurisdiction over Benares, the Court of Sudder Dewanny and Nizamut Adawlut would probably be able to spare another judge; but on this I will not reckon, considering that the same circumstance might render it necessary to add a fourth member to the Sudder Commission.

Under either plan, the supernumeraries may be easily employed on special duties. There are many thousand cases of pensions and rent-free holdings, which it would be equally advantageous to Government and the people to have settled without delay.

(signed) *H. Mackenzie.*

(C.)

LETTER from *W. W. Bird*, Esq. to Mr. Secretary *Mackenzie*.

My dear Mackenzie, 16th April 1828.

I ENCLOSE a list of the cases which were thrown out in consequence of possession having been lost subsequently to 1217 F. Numerous cases of the same description would be preferred,

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

preferred, were we authorized to take them up. The accompanying correspondence with the Governor-general in Council will explain how the question stands at the present moment. The case of Tiloke and others for Mouza Kooktra Chuhurpore, which we were allowed to review by the orders contained in the last paragraph of Mr. Bird's letter of the 5th April 1827, has been referred under Section x. Regulation I. 1821; but the papers have not yet been sent down. You will therefore have time before the decision can take place to settle the point of jurisdiction.

A copy of our Letter of the 10th April 1821, in which the question originated, is likewise enclosed, and you will easily obtain from Molony, who knows all about the matter, any further information that may be necessary on the subject.

I return the petition which you put into my hands at Maharajgunge. The case was dismissed by the M. S. C. before the enactment of Regulation I. 1823, under the idea which then prevailed, that the exercise of undue influence was necessary to give jurisdiction. If the petition be sent to us, we will apply for permission to return it, or it might be transmitted to the Sudder Court direct, to be forwarded to us, with orders for that purpose.

I remained at Gopee Gunge about ten days, and succeeded in enabling the raja's officers to secure nearly the whole of his balances. I hope soon to report progress.

Believe me, &c. &c.

Allahabad, 16th April 1828. (signed) *W. W. Bird.*

STATEMENT of CLAIMS preferred on the Grounds of ERROR of RECORD, which were dismissed without an Investigation of the Merits, under Instructions communicated in a Letter from the Secretary to the Sudder Special Commission, dated the 22d December 1821, in consequence of Possession having been lost subsequently to the period specified in Clause 1. Sec. iii. Reg. I. 1821.

No. of the Suit.	NAMES OF THE PARTIES.	MATTER OF ACTION, and Amount at which it is laid.	Date of Institution.	DECISION, with a Summary of Grounds on which it is passed.	Date of Decision.
30	Sumbhur Sing, Doorga Sing, Ajeet Sing, Gumbhur Sing, and Sheodeen Sing, Plaintiffs, *versus* Wizeer Allee and Dost Allee, sellers, and Tajoodeen Hossein Khan, purchaser, Defendant.	-- For the recovery of Mouza Peerpore Nukuseea, Pergunnah Akberpore Shahpoor, on the ground of Error of Record.	2d April 1821.	-- Returned to the Zillah Court, the claim not being cognizable under Clause 1. Section iii. Regulation I. 1821, with reference to Mr. Secretary Molony's Letter, dated 22d December 1821.	8th Feb. 1822.
69	Khulluq Sing, Plaintiff, *versus* Wazee Allee, Defendant.	-- For the recovery of Mouza Bigaree, Pergunnah Akberpore Shahpoor, on the ground of Error of Record.	8th Feb. 1822.	- - ditto - - -	8th Feb. 1822.
81	Heera Sing and Desraj, Plaintiffs, *versus* Worus Allee Khan, Kootul Allee Khan, sons of Khan Khanan and his widow, Defendants.	-- For the recovery of Mouza Rusudpore Tuppa Tehgeer, *alias* Bheekapore, Pergunnah Akberpore Shahpoor, on the ground of Error of Record.	6th April 1821.	- - ditto - - -	8th Feb. 1822.
36	Bureer Sing and Lol Sing, Plaintiffs, *versus* Warees Allee, son of Khan Khawan, Mosst Hyatool Nissa, widow of Khan Khanan, Defendants.	-- For the recovery of Mouza Chutainee, Pergunnah Akberpore Shahpore, on the ground of Error of Record.	2d April 1821.	-- Dismissed without investigation of the merits, the claim not being cognizable under the orders communicated in Mr. Secretary Molony's Letter, dated 22d Dec. 1821. The Plaintiffs lost possession subsequently to 1217 Fusly.	15th Feb. 1822.
68	Hurpershad Jurakhun and Juggernath, Plaintiffs, *versus* Nujeeb Allee Khan, seller, Ramruttun, purchaser in possession, Defendants.	-- For the recovery of Mouza Hurdooa Tuppa Palunder, Pergunnah Bhogneepore, on the ground of Error of Record.	15th April 1821.	- - dttto - - -	15th Feb. 1822.
79	Bowanee Pershad Muddaree Shookie and Bastee, Plaintiffs, *versus* Umeer Khan, Defendant.	-- For the recovery of Mouza Tootunee Chund, Pergh Bhogneepore, on the ground of Error of Record.	5th April 1821.	- - Returned to the Zillah Court, the Plaintiffs having lost possession subsequently to the year 1217 Fuslee.	15th Feb. 1822.

STATEMENT of CLAIMS preferred on the Grounds of ERROR of RECORD, &c.—*continued.*

No. of the Suit.	NAMES OF THE PARTIES.	MATTER OF ACTION, and Amount at which it is laid.	Date of Institution.	DECISION, with a Summary of Grounds on which it is passed.	Date of Decision.
100	Budun and Munsook, Plaintiffs, *versus* Wareesallee Khan and Kootoob Allee Khan, sons of Khan Kawan Hyatooneesa, his widow, Defendants.	-- For the recovery of Mouza Pertanbpore, Pergunnah Akberpore Shahpore, on the ground of Error of Record.	1st April 1821.	-- Dismissed without any investigation, on the grounds specified in No. 36.	15th Feb. 1822.
359	Deokee Makun and Unur Sing, Plaintiffs, *versus* Waris Ally Khan, Kootoob Khan, sons of Khan Khawan, Moss[t] Hyatoon Nissa, widow of Khan Khanan, Defendants.	-- For the recovery of Mouza Suryan; Pergunnah Akberpore Shahpore, on the ground of Error of Record.	2d May 1821.	-- ditto - - -	—
809	Mukha, son of Kishoon, Plaintiff, *versus* Chotelal and Bechalol, Defendants.	-- For the recovery of Mouza Alum Chundpore, Pergunnah Akberpore Shahpore, on the ground of Error of Record.	4th Jan. 1822.	-- ditto - - -	23d Feb.
34	Moona Sookul Sheodun and Gasso, Plaintiffs, *versus* Waris Ally Khan, Moss[t] Hyatoo Nissa Begum, heirs of Khan Khanan, Defendants.	-- For the recovery of Mouza Tantmow, Pergunnah Akberpore Shahpore, on the ground of Error of Record.	2d April 1821.	-- ditto - - -	- ditto.
33	Dabeedeen and Sheodeen, Plaintiffs, *versus* Warees Ally, Moss[t] Hayatoon Missa, heirs of Khan Khanan, Defendants.	-- For the recovery of Mouza Husunpore Gerhewa, Pergunnah Akberpore Shahpore, on the ground of Error of Record.	2d April 1821.	-- ditto - - -	16th Mar. 1822.
476	Sirdar, Plaintiff, *versus* Fowsl Imaum, Defendant.	-- For the recovery of Mouza Oona Chutterbhojepoor, Pergunnah Bhogneepore Mosanugur, on the ground of Error of Record.	19th May 1821.	-- ditto - - -	19th Mar. 1822.
702	Dumee and Raja, Plaintiffs, *versus* Huny Sing, Defendant.	-- For the recovery of Mouza Salarpore, Pergunnah Bhogneepore Moosanuggur, on the ground of Error of Record.	4th Aug. 1821.	-- ditto - - -	19th April 1822.
800	Gunsoor Chedie Bhola and Bowanee, Plaintiffs, *versus* Eshoree Sing Canoongoe, Defendant.	-- For the recovery of Mouza Buhree Muh, Pergunnah Bhogneepore Moosanuggur, on the ground of Error of Record.	11th Jan. 1822.	-- ditto - - -	22d April.
813	Anoop and Neen, Plaintiffs, *versus* Dewan Sohan Ally Khan Pemraj, son of Shetah Reai, deceased, Jubbolol Sohumloll Kustooree Sing, Defendants.	-- For the recovery of the Mouza Tarunpore, Pergunnah Bhogneepore Moosanugger, on the ground of Error of Record.	11th Jan. 1822.	-- ditto - - -	25th April 1822.
815	Sceruk and Dhuna, Plaintiffs, *versus* Soobhan Ally Khan Dewan Pemraj, son and heir of Shitabroy Jubbalol Sohun Lol Kustoree Sing, Defendant.	-- For the recovery of Mouza Bindamom, Pergunnah Bhogneepore Moosanuggur, on the ground of Error of Record.	11th Jan. 1822.	-- ditto - - -	25th April 1822.
761	Ryee Sing, Plaintiff, *versus* Khyrat Allee Khan, son of Nujeeb Allee Khan and widow of Gunson Sing, Defendant.	-- For the recovery of Mouza Bhurtowlee Buswadoe, Pergunnah Bhogneepore, on the ground of Error of Record.	3d Nov. 1821.	-- ditto - - -	27th April 1822.
488	Munsookh, purchaser, Plaintiff, *versus* Jye Sing Raie Canoongoe, Jye Gobind Sing, Defendants.	-- For the recovery of Mouza Sultampore, Pergunnah Bhognepore, on the ground of Error of Record.	26th May 1821.	-- ditto - - -	27th Dec. 1822.

Mofussil Special Commission, Allahabad, the 4th July 1826.

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

From the MOFUSSIL SPECIAL COMMISSION to *E. Molony*, Esq. Secretary Sudder Commission.

Sir, 5th July 1826.

WE have the honour to submit a statement of seventeen cases belonging to the Cawnpore file, which were dismissed without investigation, under the instructions communicated in the 3d, 4th and 5th paragraphs of your Letter of the 22d December 1821, and to request that we may be authorized to rehear them, in order that they may be fully inquired into, and decided on their merits.

2. These cases were first brought to the attention of the sudder by a Letter from this Commission, dated the 10th April 1821, stating certain doubts which had arisen in regard to jurisdiction, in consequence of possession having been lost subsequently to the period specified in Clause first, Section iii. Regulation I. 1821, although the error of record to which such loss was imputable had taken place within that period. These doubts were afterwards removed by a communication from the Board of Commissioners, referred to in Letter to you of 5th December 1821; but the Sudder Commission being of opinion, that the cases in question could not be heard without the enactment of a new Regulation, they were dismissed as above stated.

3. Our wish now to rehear them is founded on the decision of the Sudder Commission, in the case of Talooga Abdalpore, and on the opinion therein recorded by Mr. Ross, that a proprietor of land who may have been deprived of his right in consequence of an error of record committed within the period specified in Clause first, Section iii. Regulation I. 1821, by any act happening posterior to 1217 F. is entitled to claim restoration under the provisions of Clause fifth or sixth of the Section of the Regulation quoted; and that the Mofussil Commissioners are bound to entertain the claim, and take cognizance of it under those sections.

4. Many other claims of a similar description not yet preferred, in consequence of the ejection of the cases in question, will probably be brought forward, and of course it will be proper to admit them on the same principle.

5. Copies of the original petitions in each case, and of the decisions thereon, accompany this Letter.

We have, &c.

(signed) *W. W. Bird*, *G. Ward*, } Commissioners.

Mofussil Special Commission, Allahabad, 5 July 1826.

From *E. P. Smith*, Esq. Officiating Secretary, SUDDER SPECIAL COMMISSION, to the MOFUSSIL SPECIAL COMMISSION, 21st July 1826.

Gentlemen,

I AM directed by the Sudder Special Commission to acknowledge the receipt of your Letter, dated the 5th instant, and of its enclosures relative to seventeen cases in Zillah Cawnpore, formerly rejected by you, and which you are now desirous of readmitting on your file.

2. The Sudder Special Commission observe that the cases in question were rejected by you, in pursuance of certain constructions put by them on the several clauses of Section iii. Regulation I. 1821, which constructions were given in reply to references made by you. It does not now appear that the parties whose suits were then rejected have petitioned for any revision of the orders formerly passed by you; and as these cases must be considered to have been disposed of by a regular course of proceeding, the Sudder Special Commission do not consider it expedient now to review them on your reference.

3. I am further directed to observe to you, that in ordering the admission on your file of the claims to recover different portions of Talooga Abdalpore, it was by no means the intention of the Sudder Special Commission collectively to give a conclusive opinion on the question of jurisdiction, either generally or in that particular case; all that the Sudder Special Commission intended was, that you should receive the case on your file, and pass such judgment as you might think proper on any points connected with it, including of course that of jurisdiction, leaving any party dissatisfied to appeal in the usual manner.

I have, &c.

(signed) *E. P. Smith*, Officiating Secretary.

Fort William, 21st July 1826.

From the MOFUSSIL SPECIAL COMMISSION to the Secretary to the SUDDER SPECIAL COMMISSION.

Sir, 6th September 1826.

WE have the honour to acknowledge the receipt of your Letter of the 21st July last, communicating the refusal of the Sudder Special Commission to authorize the revision of the cases therein referred to, on the grounds that the parties whose suits were then rejected had not petitioned for the purpose.

Appendix, No. 3.

Commissioners of Revenue and Circuit.

2. We now beg leave to enclose a copy of a petition to that effect from Tiloke and others for the recovery of Mouza Kootra Chukurpore, Pergunnah Bhogneepore Moosanugur, their complaint for which was rejected by us on the 9th February 1822, in pursuance of the construction put by the sudder on Clause sixth, Section iii. Regulation I. of 1821; we enclose likewise copies of the original petition, and of all papers connected therewith.

3. It is stated by the complainants that the village is their hereditary property, and that they were in possession of it until the end of the year 1219 Fuslee; but Tilokee, the engaging proprietor, having been erroneously recorded at the cession as Mokuddum, they were ousted in 1220 Fy by the decision of the Revenue authorities, in favour of Kazee Mahomed Yasseen, the present occupant, who had no title to the estate, and whose name had been originally entered in the Settlement books a zemindar, through the influence of the native officers.

4. We hope that the Sudder Commission, before passing orders on the above complaint, will pronounce a conclusive decision on the question of jurisdiction; or should the construction formerly put upon Clause sixth be deemed an obstacle to so doing, that they will submit the point for the consideration of Government.

5. Adverting to the great accumulation of business before this Commission, it is obviously an important object to save time; but if these cases be taken up without the point in question being previously determined, and it should be ultimately decided on appeal that our jurisdiction is barred, in consequence of possession having been lost subsequently to 1217 F., although the error of record and recognition which occasioned such loss was committed prior to that period, the whole of the time employed in these inquiries will have been thrown away.

6. We are also induced to urge the expediency of a preliminary determination of the point in dispute, for the further reason, that our general jurisdiction in the district of Cawnpore, which has been already renewed no less than four times, may be brought to a close, since, if jurisdiction on the one hand be barred in the cases alluded to, it would probably be unnecessary again to extend our authority in that district; and if, on the other hand, jurisdiction be allowed, all the cases of the nature referred to might be immediately admitted on the file, and brought to a speedy decision.

We have, &c.

Allahabad, 6th Sept. 1826. (signed) *W. W. Bird*, *Geo. Warde*, } Commissioners.

From the Secretary to the SUDDER COMMISSION to *Geo. Warde*, Esq. Member of the MOFUSSIL SPECIAL COMMISSION.

Sir,

I HAVE the honour to acknowledge your Letter of the 6th September last, which was received in this office on the 13th of the same month, but has since been mislaid.

2. In answer to the first paragraph of the communication in question, I am directed to inform you that the Sudder Special Commission, from a consideration of the obvious danger and inexpediency of pronouncing judgment on the general admissibility of any stated number of cases, without an investigation into the circumstances of each particular case, were induced to require that you should go into and determine a real case, and submit it for their final decision, that a rule of precedent for similar cases might be thereby established for the guidance of the Mofussil Commission.

3. The whole of the correspondence which took place in the case of Abdalpore having been referred to Government, and no special orders having been received on the subject by the Sudder Special Commission, they are led to conclude that the orders conveyed to the Mofussil Special Commission, in Mr. Molony's letter of the 20th June last, have been deemed unobjectionable by the Government; and under these considerations, with the information now before them, the Sudder Special Commission decline entering on a discussion of the construction already given to Clause 6. Section iii. Regulation I. of 1821, and direct that the Mofussil Commission will proceed immediately to complete their proceedings in that case, and either pass a decision thereon, or refer it for a final order to this Commission, under Section x. Regulation I. of 1821.

4. In the event of the case being so referred, the Sudder Commission will, after due consideration of its merits, be prepared to discuss the general question which it appears to involve, and to decide whether a further reference to Government is or is not necessary.

5. You are authorized to review your former proceedings in the case alluded to in the petition which accompanied your Letter.

I have, &c.

Fort William, 5th April 1827. (signed) *J. R. Best*, Officiating Secretary.

From the MOFUSSIL SPECIAL COMMISSION to the SUDDER SPECIAL COMMISSION.

Gentlemen, 10th April 1828.

UNDER the second Clause of Section xii. Regulation I. of 1821, we deem it incumbent on us to submit, through you, for the consideration of his Excellency the Most Noble the Governor-

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

Governor-general in Council, a draft of a Regulation for extending the powers of the Special Commission, in receiving, investigating, and determining the claims specified in the Regulation in question, to the expiration of the Fusly year 1221.

2. The necessity of such an extension has been suggested to us by the following circumstance:—In the year 1219 or 1220 Fusly, the collector of this district was ordered to revise the settlement of Mehals, not held under zemindaree tenures; these orders, through the machinations of the native revenue officers, especially Dewan Soobhan Allee Khan, and a person named Gungapershand, who was proscribed by Government on the 25th of September 1818, led to an extensive mutation of landed property. Many of the landholders, who, in the uncertainty which prevailed at the first and second triennial settlements, were recorded as mokuddums or moostagers, though, in most cases, there is reason to believe they were the real proprietors, were ejected, and engagements were made with individuals, whose names had been subsequently introduced into the Persian copy of the settlement account, in the column of proprietors, expressly for that purpose; and who, in many instances, were the relations or dependants of native officers, or fictitious substitutions; thus a large portion of Pergunnah Akberpore, Shahpore, and several other estates elsewhere, were transferred in 1219 and 1220 Fuslee to Khulut Khan, Khan Khawan, and Surwanee Khan, the Isimfurzees of the ex-tehsildar, Tajoodeen, and others, whose claim to original proprietary right is notoriously defective.

3. We understand that nearly 150 villages have been alienated in the manner above described. Applications for the recovery of several of them have been brought to us, and more are expected; but we shall await the result of this reference, to determine in what manner they are to be disposed of.

4. We were at first inclined to think, that as these fraudulent mutations in 1219 and 1220 Fuslee, could not have been brought about but for the error in the title, by which the first holders were originally admitted to engage, their cases might be heard under the rule contained in the latter part of Clause 6. Section iii. Regulation I. 1821; on more mature consideration, however, we think that there is great room for doubt, and in order to prevent our proceedings being involved in an error, which might be attended with serious embarrassment, we have determined, as enjoined in such cases, to propose the measure now submitted. We have been induced to recommend the extension to the end of 1221 Fuslee, with a view to include the whole of the proceedings of the quinquennial settlement.

5. The Regulation, as far as we are yet capable of judging, appears to be admirably calculated to meet the objects intended to be effected by it; and in proportion as its provisions are known and understood, to excite among the native inhabitants of this district the greatest satisfaction.

We have, &c.

Mofussil Special Commission, Cawnpore, 10th April 1828.

(signed) *H. G. Christian*, *W. W. Bird*, } Commissioners.

A. D. 1821: REGULATION.

A REGULATION for extending the Powers of the Special Commission, in the Ceded and Conquered Provinces, acting under the Provisions of Regulation I. 1821, passed by the Governor-general in Council, on the

Preamble.

WHEREAS it has appeared that numerous estates in the ceded and conquered provinces were acquired by the native officers of Government, their relations, connexions and dependants, subsequently to the period to which the cognizance of such cases is limited by Regulation I. 1821, through the fraudulent and iniquitous practices enumerated in that Regulation, the following rules have been enacted, to be in force from the date of their promulgation.

Extending to the expiration of 1221 Fusly, the admission of claims for the recovery of land preferred to the Special Commission under Regulation I. 1821.

The Special Commission, acting under Regulation I. 1821, is hereby authorized to receive, investigate and determine all claims to recover possession of land, which have been lost without just cause, through or in immediate consequence of any act done or record prepared, filed or authenticated, by Revenue officers, from the period of the cession or conquest, (according as the lands may be situated in the ceded or conquered provinces,) to the expiration of the Fuslee year 1221, corresponding with the

(signed) *H. G. Christian*, *W. W. Bird*, } Commissioners.

(D.)

LETTER from *A. Mackenzie*, Esq., Second Judge, Provincial Court, at *Bareilly*, to *Holt Mackenzie*, Esq.

Sir, 13th November 1827.

IN the eighth paragraph of the Letter of the Right honourable the Governor-general, addressed to yourself, dated Meeruth the 21st July last, your attention has been directed to the general bearings of our Judicial system in its application to the Western provinces, and to the measure of establishing a sudder court in the Western provinces.

The judges of the provincial courts exercising original and appellate jurisdiction, and going circuits to hold criminal sessions for gaol deliveries of districts, being the same persons, it may be perhaps pardoned to an individual of this class to submit to your notice a few

Appendix, No. 3.

Commissioners of Revenue and Circuit.

a few observations relating to the circuit business within the provincial division of Bareilly, which comprehends the greatest portion of country decribed, in Revenue language, as the Western provinces, exclusive of the territory "to which our written laws do not extend;" for it is obvious the performance of the circuit duties by officers so circumstanced has a direct communication with some of the judicial inquiries to which your attention has been directed.

The judicial province of Bareilly is comprehended between the 26th and 30th degrees of latitude, and the 77th and 81st of longitude. This vast area is thickly peopled; it is divided into twelve stations, at which sessions are held, besides joint magistrateships; and it may be estimated that, taking one district with another, 30 commitments are made in every six months for trial, at six-monthly sessions prescribed by law, supposing sessions to be regularly held for each district at not greater intervals (than six months). From my own observation, in whatever parts of the country I have been employed, and from all the inquiries I have been able to make of others, I have arrived at this conclusion, that, taking one trial with another, one set of workmen and description of people with another, one trial a day, including travelling and holidays, is a good and regular rate of labour; it might be shown, I think, that this rate exceeds the fact, but not the practicable, and perhaps, too, that the average of commitments in six months is below the truth. The strength of our court is three itinerant judges, and the senior judge, who remains at Bareilly, and in the absence of all the other judges holds monthly sessions for the city and zillah of Bareilly, and the two extensive joint jurisdictions of Pilibheet and Shajenhanpore; it is certain that the commitments for this portion of the province nearly double the average of 30 in six months. Two members of the court must be always out on circuit; and if any the smallest allowance be made for interruptions of business from sickness or necessary absence on leave, of members for the shortest intervals, the three itinerant judges must be out together, and the whole time of the senior judge would be occupied with the Bareilly sessions, leaving no time at all for civil duties, without even securing the non-accumulation of arrears of circuit business itself, by the death of prosecutors and witnesses in cases committed for trial during the long intervals that occur between gaol deliveries, when arrears have once begun from any cause to accumulate. Sessions are not shortened but protracted, for other witnesses must be waited for, or equal time lost on inquiries made to ascertain the death or cause of absence of persons whose attendance was thought necessary by the committing authority. The cruel hardship on the persons committed by long detention in prison before trial, possibly innocent, need only be adverted to: the hardship on the officers, native and European, forming the courts of circuit, is not a small one, in being kept eternally without rest or a home. Some relief to many parties would be obtained by dividing the Bareilly circuit into two portions, and by assigning them to each of the two members of the court, who would leave the sudder stations simultaneously at the six-monthly periods. A line drawn due west, from Bareilly to the Jumna, would divide the province into two, or six districts, exclusive of Bareilly, and a circuit might generally be concluded for each portion in six months by each court. All parties would probably work harder to get home, and the effect upon the population would be greater of trials and punishments, while the criminal acts which occasioned the trials were still fresh in the minds of the people. Finally, the judge returned from the circuit would have six unbroken months to devote to the judicial business of appeal and of original jurisdiction, provided it were determined by Government that monthly sessions should no longer be held for Bareilly, but sessions at six-monthly periods, as for all the other districts of the country, and provided a fourth itinerant judge shall be conceded to us in like manner as has been already done to most of the other provincial divisions of half the extent of ours, half the number of districts. It need not, I am sure, be suggested to your mind, how much application, unbroken by other kinds of labour, promotes both the despatch and the quantity of the performance of one description of business generally of the same nature; for my own part, I have always experienced, that whether the business I have been engaged on be holding criminal trials, or investigating questions of civil right (when it so happened), I have been able to dispose of twice as much business in a second as in a first month, when the attention has been singly given to one description of judicial business. The case, no doubt, may be different with others, and with minds of the higher and rarer order, but I speak of men with ordinary working capacity; the case too may be very different when, from the nature of business, the conclusions sought to be arrived at are not to be, or cannot be, of a severely and strictly judicial character and effect. It is not to be concluded, that because a comparatively small number of appeals have been disposed of in the Bareilly court, with reference to other courts, an equal proportion of work has not been performed; with reference to the relative strength of the courts, and the relative number of appeals filed, in my time, till very lately, there have never been more than one judge (the senior) present at the same time at the sudder station. If a single judge does not concur in the judgment passed in the zillah, he has performed an equal quantity of work in recording a different opinion, which remains however a dead letter till a concurring opinion of a second, a third, a fourth or fifth judge shall dispose of the appeal; any dissentient opinion from the zillah judgment may be taken to have established some reasonable ground for the appeal. But parties will not appeal, when from the presence of a single judge at the sudder station evil may at once arise to the appellant, by the confirmation of the zillah judgment; and no redress can possibly be obtained by any judgment of the appellant jurisdiction in his favour for a long time to come; these considerations may account for the few appeals disposed of, and the few appeals comparatively filed in late periods; the truth is, that most of the appeals are of old standing, in almost every one of which, one at least, if not more opinions have been recorded. These cases are principally such wherein the plaintiffs sue for shares of village lands and rights; in these cases there never could nor can be genuine documentary evidence,

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Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

evidence, from the nature of the rights and circumstances of all the parties, for the defendants in possession generally, in whose favour the zillah judgments have gone. Quantities of documents are on the files of the cases, showing that they or their predecessors were always held to be, and acted with the Government agents, as the sole owners and enjoyers; and show from the registers of collectorships, that the persons whom the plaintiffs profess to represent, or from whom to inherit, never existed at all, or never had connexion with the lands or rights sought for; yet so powerful has been the effect of truth, of the force of oral testimony, and of the general sentiment of the zillah, that in a vast number of cases the plaintiffs have obtained considerable benefit from prosecuting, either from compromise with the adversary, or from judgments partially favourable to their claims. In such cases it is hardly possible to concur wholly with the zillah judge; his judgment must be either reversed or amended, on his own showing, and so the case stands over not disposed of. I believe it will be found, that not any original suits are, properly speaking, in arrear before the Bareilly court. What has been said is only intended to show that it is not the fault of the members of the court, but owing to established rules, and the distribution of the general duties to be performed by the whole body, that so little civil work has been of late years executed in the Bareilly court. The division of the province into two circuits, the appointment of a fourth itinerant judge, and the holding six-monthly, not monthly, sessions for Bareilly, Pilibheet and Shajehanpore, would render some small facilities to the devotion of more time and labour to civil business; the convenience and comfort of the public servants, native and European, and humanity to prisoners to be tried for crimes, and to their families, may at the same time be considerations not wholly to be excluded from the mind of Government.

When I ventured to observe to you the different capacity I experienced in my own instance for the performance of work of the same and of a different description, in periods of the same and some duration, I meant work of the nature of properly judicial investigation and judicial conclusions. I am however aware in how small a degree work of the nature contemplated is needed, or can be either performed or rendered useful in the existing state of men and things in these provinces. I concur in the unanimous opinion, I believe I may venture to say, of every man, European or Asiatic, who, capable of forming an opinion, has formed one on the subject, that the Judicial system instituted or sought to be instituted by Lord Cornwallis has wholly failed in its application to the Western provinces. It appears to my mind, that the first great vice was the forms of processes and proceedings, and the intervals of time between pleadings prescribed by the Regulations; and the second, and a greater vice, was the institution of admitting appeals in all cases whatsoever, (that was the principle; the after limitations with regard to the amount of value of subject in dispute touched not the principle); the spirit of litigation was created by the spirit of gaming to take another chance, and of honour not to suffer a defeat; the non-execution of decrees followed the appeal; and the demoralization of all classes of the community followed judicial delays and attendance at the courts, and the gambling of parties in the judicial lotteries required and fed perjury, forgery, subornation, and, in the lower parts of India, private assassination. In Chittagong there is hardly an old case where land is not the object disputed, and there are very few of a great many such in appeal in that zillah of many years standing, in which successive murders of principals and witnesses on each side, have not been perpetrated, and are recorded, and in which the papers of the civil record and the record of trials before the courts of circuit are not quite mingled together in the nuthees respectively: the only mode of administering these countries seems to be clearly indicated by past experience of our own failure, and the older experience and better success of the ancient governments in the time of their military strength, namely, the system of having strong local governments severely responsible to supreme authority, content with strong probability of truth, and alike ignorant of and scorning purely judicial inquiries, and judicial distinctions, doubts, darkness and acquittals. The local governments of the ancient better times may be well represented and succeeded by the commissions or commissionerships of the present day, and completely resorted to in a few rare instances, but in a limited manner more generally: why should not a judge in original jurisdiction, for subjects of great value and difficulty, and in appeal, and a judge of circuit be joined with the revenue superior officer in one commission? Let the three minds consider the necessity for carrying into execution a capital sentence, for the establishment of a general principle, for the assessment of the claims of the state for revenue over extensive tracts of country similarly circumstanced, or the admission of extraordinary exceptions, and consider the decision of points of law and of civil suits in original and appellate jurisdiction of great magnitude and importance; while in ordinary and usual business, each commissioner would confine himself to that province of public business with which he was from habits of ability most conversant, and of which he was the most capable: that there are not men enough, either in number or sufficient in capacity, must not be argued; the time and the want must supply the men and content the Government with the number and capacity: it is not the master workman that complains of his tools. What I have now presumed to state is my own private speculative opinion; once written I let it stand, because I honestly believe the opinion is very generally entertained by private individuals, both European and Asiatic; but for it, merely as coming from me, I expect hardly a hearing; yet I cannot help expecting some attention may be given to the observations I have submitted respecting the circuit business, for I pledge myself to establish from tabular statements, with which I can furnish you from the court, that my general statements are fully and legitimately founded in and on the truth.

I have, &c.

13th November 1827. (signed) *A. Mackenzie*,
Second Judge.

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Commissioners of Revenue and Circuit.

No. 3.—MINUTE of Mr. *W. B. Bayley.*

I HAVE carefully considered the Report which the Territorial secretary has prepared under the instructions of the Governor-general, and I have at the same time given my attention, as far as the pressure of current business will allow, to the other important points indicated in his Lordship's Minute.

I concur generally in what is stated by Mr. Mackenzie, as to the expediency of substituting Revenue commissioners for the existing Boards, and of establishing a general Head Board of Revenue at the Presidency; but with that measure it appears to me to be very desirable to combine an arrangement calculated to secure the better administration of justice particularly in the divisions of Barelly and Benares.

It is quite clear that the circuit of the former is extensive beyond all reasonable bounds; that it is consequently impracticable to guard against frequent delays in the gaol deliveries; that the judges cannot have that knowledge of the districts under them which it is desirable they should have, and do not practically exercise the control over the magistrates and the subordinate police which ought to be maintained. Even if we adhered to the principle of requiring that our judge should proceed every six months on circuit, yet, as there is no chance of his being able to return within the period, we should not really maintain the system contemplated in the establishment of half-yearly sessions.

To the civil business of the court, the constantly recurring change of judges resident at the sudder station, with the exception of the senior judge, and the shortness of the period for which any one of them can devote himself to the hearing of appeals or original suits, is a most serious hindrance. The same observations apply, though in a much less degree, to other divisions. For if the circuit business be more promptly conducted, the arrear of civil cases is generally much heavier than at Barelly. To any plan for remedying the evil, by an adequate increase of numbers, there is a strong objection in the present state of the finances; and, independently of pecuniary considerations, the number of gentlemen employed in the Sudder Court, the Boards, and the Courts of Appeal, is already so great as to create a serious difficulty in finding officers of suitable qualifications. It is impossible, indeed, to revert to the expression of the views entertained by Lord Cornwallis in regard to the Courts of appeal and circuit, as explained in the annexed extract from his Minute of February 1793 *, and not to be struck with the contrast between what was designed and what has been accomplished.

All that is stated in regard to the necessity of exercising a close control over the executive officers in the Revenue department, seems to me to apply equally to the executive police; and if we desire our judges of circuit to do what they are expected to do towards the prevention of abuse and the enforcement of the law, we must give them such a sphere of control as may admit a reasonable inference that they knew the districts of their respective divisions, and are really accessible to the complaints of the people. Nor is any thing, I believe, more certain than that promptness in the trial of charges has a very powerful effect in checking the prevalence of crime. The importance of securing the early acquittal of the innocent (and all who are not convicted we are bound to treat as such) need not be insisted upon.

With these sentiments, I have been led to the conclusion that much advantage will result from combining, in a single officer, the functions of a Revenue commissioner and of a judge of circuit.

As far as the executive officers are concerned, I confess I am not convinced of the expediency of any union of Revenue and Judicial powers, further than is already provided for by the rules of Regulation VII. 1822. I can readily, indeed, perceive that in the hands of superior men the measure might be very advantageous. The unity of purpose, the concentration of knowledge, the singleness of authority, may doubtless, in particular places, best operate to secure the lives and properties of the people and to command their obedience. But in considering a general scheme, we must not look to special advantages. We must take things and men as they are in the gross. And so considering the subject, I confess I should

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* 45. These Courts will be the great security to Government for the due execution of the Regulations, and the barriers to the rights and property of the people.

46. The offices of judges of these courts will be the first in importance in the civil line. The persons selected to fill them should be distinguished for their integrity, abilities, and knowledge of the manners, customs, and languages of the natives, and their allowances should be proportionate to the greatness of their trust. The decisions of these courts will command respect, and at the same time that they will give security to property, and afford protection to the people, their weight and influence will contribute greatly to the vigour and stability of our internal Government.

47. The judges of these courts, in their capacity of judges of circuit, will possess exactly the same powers as the present judges of circuit, with this great additional advantage, that they will be able to complete the gaol deliveries in one half the time in which they are now accomplished. The senior judge should make the circuit of one half of the stations within their jurisdiction, whilst the other two perform the circuit of the remainder. In addition to the great advantages of expediting the trials, the duty of the circuit will be rendered easy to the judges, and leave them ample time for the discharge of their duties as a court of appeal in civil cases, and also for the trial of crimes and offences committed within the cities; for which last purpose they should be directed to hold a criminal court on the first of every month, (excepting when they are upon the circuit,) and continue their sittings until sentence is passed upon all persons committed or held to bail, for trial in the preceding or any former month, unless, from the non-attendance of witnesses or other causes, they should find it necessary to postpone the completion of any trials to a future session.

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Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

I should be glad to see in every district a civil judge, a magistrate and a collector, acting separately.

To the union of powers in the authorities of control, there do not appear to me to exist similar objections. The Revenue commissioners and the judges of circuit are alike removed from the heat and haste which may occasionally betray the best of our executive officers into error. In no conceivable case do I perceive any likelihood that the powers of the one department can be wrested from their proper purpose, with a view to objects connected with the other.

On the other hand, it is obvious that in controlling the police, a judge of circuit will derive very great advantage from the information he may obtain as a Revenue commissioner, from the people who will crowd to him in that capacity, and from collectors and tehsildars under his authority; and that in like manner the communications of the magistrates, the reports of the darogahs, the results of trials at the gaol deliveries, and the examination of the proceedings of the inferior courts, will often throw much light upon the character and effect of the arrangements adopted by the Revenue officers. One large class of crime, affrays, which often fills our gaols with men, whom, however necessary it is to punish, it is impossible not to regard without compassion, may be in a great measure directly traced to defective Revenue arrangements; and if we were to pursue the consequences of feuds arising out of unadjusted rights, of the poverty resulting from over assessment, of the ruin and confusion which unjust sales must occasion, we should readily recognize a still closer connexion between the departments.

Independently, therefore, of the advantage of contracting the extent of the circuits, I am quite persuaded that the union of the powers of a Revenue commissioner with those of a judge of circuit, will be attended with much advantage in the Judicial department and in the Revenue department; the very necessity of going the circuit will tend advantageously to secure that personal supervision which Government and the Home authorities have so frequently enjoined. Vested with the twofold authority over a moderate tract of country, the controlling officer will be altogether without excuse, if there be found to exist in the subordinate offices any serious mismanagement or malversation.

I might much strengthen my argument as applicable to the Western provinces, by adverting to the peculiar nature of the duties belonging, in an unsettled country, to the Revenue commissioners. But it seems to me to be unnecessary to dwell longer on the subject.

Nor do I now propose to enter into any detailed discussion of the measures that seem to be required for the due administration of civil justice. I assume it as indispensable that the arrears in the appeal courts should be got rid of. It is certain, I apprehend, that that object will be greatly promoted by the separation of the criminal and civil powers, now exercised by the provincial courts. And though I am disposed to think, that for civil suits it is advisable to have only one appellate European court, the ultimate adoption of such an arrangement will in no degree be hindered (on the contrary, it will be facilitated) by the measure I now recommend in regard to the courts of circuit.

Keeping the civil courts distinct from the Revenue authorities, we do not in any degree depart from the system already established for the administration of civil justice; and the more I have considered the subject, the more have I been confirmed in the persuasion that the duties of the judges of circuit may more advantageously be combined with those of a Revenue commissioner, than with those of a civil judge of appeal.

I shall not, however, now enter further on the consideration of the changes to be made in the civil courts; but confining myself at present to the departments of Revenue, police and criminal justice, I shall proceed at once to state briefly the conclusions to which I have arrived on a consideration of the subject, in full communication with Mr. Mackenzie, and the propositions I have to submit for the deliberation of the Board. In the sequel, I shall have incidentally to remark upon the effect of these propositions on the provincial courts, in which the number of judges must of course be diminished when the circuit duties are separately provided for; but in whose authority, as civil tribunals, I do not propose any immediate change.

It appears to me, then, that Benares and the provinces to the north-west should be placed under commissioners exercising in the Judicial department the powers of judges of circuit and in the Revenue department those of Revenue commissioners.

I conceive that there ought to be five great divisions instead of six, as suggested in the paper (B.) requiring ten commissioners instead of twelve.

The Agra and Furruckabad divisions may be united, Allyghur being perhaps excluded from the former, and attached to Delhi and the districts of Cawnpoor and Futtehpoor being detached from Furruckabad, and added to the Allahabad division.

The provinces of Rohilcund and Benares (the latter including Gorückpoor) to constitute as proposed, separate divisions.

In each division two commissioners to be employed with separate circles, according to the plan of paper (B.), modified as is requisite, in consequence of the change in the divisions above specified, and with some further slight changes.

The annexed statement will show the distribution of districts which has appeared to me the most convenient; but the point is one of detail, which may be further considered if the general plan be approved. I shall content myself, therefore, with explaining an apparent misarrangement; I mean the union in the same circle of districts belonging to the Doab and Bundlecund. For this, two reasons have been assigned; first and chiefly, because in going from Cawnpore to Humeerpore, and from Allahabad to Banda, the commissioner will have to pass through pergunnahs that are not otherwise likely to be often visited, those of the Doab

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on the Jumna and the southern part of Bundlecund; and secondly, because in the rains the Doab is much more salubrious. I have also thought it right to include in the statement, a similar distribution of the districts of Behar, Bengal and Orissa, in case it should be deemed, as I am disposed to think it is, expedient to adopt the same arrangement generally, and the opportunity is obviously a fit one for providing that supervision and control, which we have long desired to see established over the affairs of Arracan.

It seems to me to be desirable that the commissioners of each division should, when circumstances do not decidedly oppose the arrangement, have their head quarters at the same station, for the benefit of consultation; that provision may more readily be made for occasional vacancies or sickness; that Government may be able to require the concurrence of two voices in any case wherein it may appear expedient, and with a view to economy in certain parts of their establishment; but that each be distinctly responsible for the good government, and vested with the exclusive control, of the districts included in his circle.

The commissioners will be subordinate to the Nizamut Adawlut in their capacity of judges of circuit, and to a Sudder Board as Revenue commissioners. But in the Delhi territory, the powers of the Sudder Dewanny and Nizamut Adawlut and those of the superior Board should remain with the resident.

For the above purposes, nineteen officers are required in the interior of the country, in addition to the commissioners of Cuttack and Assam, to whom I propose to assign some additional territory; for the Presidency Board three members are required; in all twenty-two.

There are now employed in the provinces in question, exclusive of Cuttack and Assam, nine members of Boards, three Mofussil special commissioners, twenty-six provincial judges, and two superintendents of police; in all forty.

Of the twenty-six provincial judges, fourteen should be retained, for the present at least, to decide the appeals, of which so heavy an arrear has accumulated; viz. three at Benares and Calcutta, and two at each of the other provincial stations.

The remaining twelve will be available for the new offices; and if the arrangement be generally adopted, Government may, I think, dispense with the services of the superintendents of police; of whose office Sir Charles Metcalfe has more than once suggested the abolition, but which, under other circumstances, I should have been disposed to retain, unless positively compelled to relinquish it by a want of means.

Having thus twenty-six officers at our command, it would appear that the arrangement may be adopted with a considerable saving of expense; since even if it should be resolved to have three commissioners for the execution of the third Regulation of the present year distinct from the established courts, there will still be one office less to provide for; and the secretary and the sub-secretary of one of the Revenue Boards will be otherwise employed.

The number of judges of appeal may, I hope, be gradually reduced; and there will be a diminution of allowances as vacancies occur among the officers, who now draw more than that which I imagine will be thought sufficient for the commissioners. The arrangements which I shall submit in a separate Minute to the Board, with a view to expedite the administration of civil justice, will include a proposition for the eventual establishment of a separate Sudder Dewanny and Nizamut Adawlut in the Western provinces, and for the ultimate abolition of all the provincial courts of appeal. If those measures should be deemed expedient, a much larger saving of expense will be effected.

The uncovenanted and native establishments of the several Boards and commissioners now cost 24,769 per mensem, which, under a proper system and with jurisdictions admitting much personal discussion between the commissioners and their subordinates, ought to suffice, or more, for the establishments of the above offices. There are, besides, the native establishments of the circuit courts of Barelly and Benares. And the circuit houses would, under the proposed plan, serve as cutcherries for commissioners. Further, some of the collectors might admit of reduction; and on the whole, a certain saving might be anticipated with much increase of efficiency.

(signed) *W. B. Bayley.*

			Sudder Station.
1. Seharunpore	N. Delhi	Moozuffernugur, Hansee	Delhi.
2. Meerut	Rohtuk Delhi	Goorgaon	
3. Agra	Boolundshuhur	Ally Gurgh and Sydabad	Mynpooree.
4. Furruckabad	Mynpooree	Surpoora Belah, Etawah	
5. Moradabad	Nugeena	Sushwan	Barelly.
6. Barelly	Shahjehanpore	Pillibheet, Kumaon	
7. Cawnpoor	Futtehpore	Humeerpore	Futtehpore.
8. Allahabad	Banda		
9. Benares	Mirzapore	Jounpore	Benares.
10. Goruckpore	Azimghur	Ghazeepore	
11. Sarun	Shahabad	Tirhoot	Patna.
12. Patna	Behar	Rungpore	
13. Bhangulpore	Monghyr	Mald Poornea	Malda.
14. Dinagepore	Bugerah	Rajeshye, Rungpore	
15. Moorshedabad	Beerbhoom	Nuddea	Moorshedabad.
16. Dacca Jelalpore	Tipperah	Mymensing	Dacca.
17. Arracan	Chittagong	Bullooah	Chittagong.
18. Assam	*Rungpore	Sherpore and Sylhet	Calcutta.
19. Backergunge	Jessore	Baraset, and 24 Pergunnahs	
20. Burdwan	Jungle Mehals	Hooghly	Burdwan.
21. Cuttack-Khoorda	Balasore	Midnapore and Nugwan	Cuttack.

* Meaning that part of Rungpore at present under the superintendence of Mr. Scott.

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Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

No. 4.—MINUTE of Sir *Charles Metcalfe*.

I CONCUR in the proposed arrangement, of which the details have been prepared by Mr. Bayley and the secretary in the Territorial department; although I regret that the intended reform is not to be more complete.

I concur, of course, in the abolition of Boards, in the substitution of commissioners, in the extension of the same changes to the Lower Provinces, and in the discontinuance of the offices of superintend ents of police; all these being measures which I have myself repeatedly advocated.

But I regret the continued separation of the offices of judge, magistrate and collector, the limitation of judicial powers of the commissioners to criminal trials, and all other parts of the old and new system which tend to produce disunion in the administration of our rule; conceiving that this disunion gives birth to discord and unnecessary litigation, with much injury, oppression and unhappiness among the people.

The best form of government, with a view to the welfare of the natives of India in their present state, I believe to be that which is most simple, and most free from artificial institutions.

The best form of government, with a view to the maintenance of British dominion in India, I believe to be that which is most conducive to an union of powers, and most free from the elements of collision and counteraction.

Such a form of government is also most consistent with economical management in our administration civil and military, the expense of which, both branches included, threatens, under the existing system, to overwhelm the Government, and cause the loss of the country.

If, therefore, I had the power to modify our existing institutions according to my own notions, I should propose as follows:—

Our territory should be arranged in districts of suitable size.

One European civil functionary should superintend each district, exercising all the local powers of judicature, police and revenue, in all its branches; having under him native officers subject entirely to his orders. The judicial business especially should be conducted in native courts, their proceedings being subject to the revision and correction of the European superintendent. Native juries should be used whenever it might be practicable, for the settlement of disputes. Junior civil servants might be employed in districts, not as indispensable parts of the establishments, but to assist the superintendent as he might direct, and thus acquire a knowledge of the duties which at a subsequent period they would themselves have to perform.

Above the superintendents of districts there should be commissioners of divisions, each division containing as many districts as might be proper, who should exercise the higher powers in all branches of administration. The district superintendents should be entirely under the orders of the commissioner of their division, who should repeatedly visit every part of the territory under his control; directing and revising and correcting the proceedings of the superintendents.

Junior civil servants might be attached to the commissioners as secretaries or assistants, to aid them in details, and acquire a knowledge of their own future duties.

The commissioners should be under the immediate authority of a Board of Control, established at the Presidency, consisting of a sufficient number of the best officers under the Government; to which Board all the reports of the commissioners should be addressed, and to its revision and correction all their proceedings in all departments should be subject. Members might be deputed from this Board to investigate more closely the conduct of commissioners, whenever there should seem to be reason for such a measure.

The Board should communicate directly with Government, reporting whatever might require orders or be proper for information; and over the Board the Government should exercise authority in all branches of administration, including even the revising, correcting and altering the judicial decisions, whenever it might deem its interference necessary from good and sufficient cause. For I contend, that in our rule over India, with reference to the present condition of its inhabitants, the exclusion of the Government from the exercise of the highest judicial functions is unintelligible to our native subjects, and produces no good effect whatever; but is calculated to bring the Government into contempt, to deprive it of the power of rectifying wrong, and to sacrifice the public revenue through the possible ignorance or caprice of individuals, deciding finally on their own arbitrary opinions, without a competent knowledge of their subject, and without any well-digested code of laws for their guidance. I mean no disrespect to the many excellent officers in the Judicial department, but I must maintain, that the power granted to them under the present system of alienating the public revenue for ever at their own discretion, with scarcely any law to check them, is what they ought not to possess, free from the control and final orders of the Government, there being no reason whatever why the members of the Government should be more likely than other individuals to decide unjustly.

The outline then of the scheme which I should think best adapted for the government of the native subjects of British India, in its present state, consists of the following particulars:—Native functionaries, in the first instance, in all departments; European superintendents over them; commissioners over the superintendents; a Board over the commissioners, and the Government above all.

Every functionary, from the lowest to the highest, ought to strive to make the administration of our Government beneficial and paternal; much, or rather most, would depend on

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superintendents of districts; and the happiness of the people would be greatly influenced by the degree of benevolence and affection felt by these officers towards them.

It is not necessary to trouble the Government with further details of the scheme above described, or with the arguments which might be adduced in its support. I am well aware that parts of it are opposed to received opinions prevalent in India as well as in Europe, and that, therefore, it is not likely to be adopted. But in recording my concurrence in a very considerable alteration of the existing mode of provincial administration, I have thought it right, at the same time, to show the principles by which that concurrence is influenced.

It does not appear to me to be requisite to enter on any minute examination of the details of the plan prepared by Mr. Bayley and the secretary in the Territorial department.

With reference, however, to the Dehli territory, I venture from local experience to remark, that one commissioner under the resident will be ample for the control of the five districts of that territory; that there will be no advantage in annexing the northern or Paneeput district, as proposed in the plan, to the circle on the opposite side of the Jumna; and that it will be preferable to keep the whole of the Dehli territory under the same direction, and to avoid mixing up any part of it with other districts, under a different form of local administration.

It further occurs to me, that there is no obvious utility in appointing two commissioners to a division, when they are to act separately in separate portions of that division. It would seem to be more advisable to make each separate circle a division, and to appoint a separate commissioner; the advantage of two commissioners being at the same station, for the purpose of communication and consultation, does not strike me as nearly equal to that of each commissioner residing within his own circle; for instance, the Furruckabad commissioner ought not to reside at Agra, nor the Agra commissioner at Furruckabad; the Barelly commissioner ought not to reside at Moradabad, nor the Moradabad commissioner at Barelly. The commissioners, if disposed to communicate and consult together, can find no difficulty in meeting on their mutual borders. Some of the circles appear to me to be unnecessarily small; but if they be so, there ought to be at least this advantage, that the duty of the commissioners will be more efficiently performed in consequence.

I should like to see clearly stated the anticipated diminution of expense, immediate and prospective, which is to proceed from the proposed arrangement. It seems to me, that if the full salaries designed for the commissioners and other officers be granted in the first instance to all, not at present in the receipt of equal allowances, before corresponding reductions accrue from casualties and resignations, there will be little, if any, immediate diminution of expense.

(signed) *C. T. Metcalfe.*

THE following Minutes in the Financial department were ordered to be recorded.

No. 5.—MINUTE of Sir *Charles Metcalfe.*

FOR the last two years, the Board of Revenue in the Western provinces has not, I understand, once met to transact business as a Board.

The three members have been acting separately; one residing principally at Barelly, one at Futtehgurh, and one in the Seharunpoor district.

The secretary, the surgeon, and the establishment generally of the Board, have been attached to the first member residing at Barelly; and the correspondence, nominally of the Board with Government, has been carried on under his direction.

The defects of this arrangement seem undeniable, and it appears to be clearly desirable, either that the Board, if a Board there is to be, should meet and transact business together, or that the useless expense of establishments designed to aid a Board, which has virtually ceased to exist, should be reduced.

I am inclined, for my own part, to prefer the latter course, both because the reduction of expense is of itself a very essential benefit under existing circumstances, and because I am not of opinion that the business of the Board will be better done by the congregating of the members, or so well, as by their separate employment in distinct divisions of territory.

I therefore beg leave to propose, for the consideration of the honourable the Governor-general and the Board of Government,—

First. That the Board of Revenue in the Western provinces be abolished.

Second. That the three members be nominated Commissioners of Revenue in their respective divisions, with the powers of a Board generally, but excepting such as it may be expedient to withhold.

Third. That the offices of secretary and surgeon to the Board, and all other establishments attached to the Board, be abolished; an establishment being reserved for the present first member, similar to that which is allowed to the second and third members respectively.

It may be here remarked, although I do not at present submit it as a proposition, that if any doubt exist as to the competence of the courts of circuit to perform the duties of superintendents of police, in the event of our dispensing with the latter, the Commissioners of Revenue may be appointed also commissioners of police.

(signed) *C. T. Metcalfe.*

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Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

No. 6.—MINUTE of Mr. *W. B. Bayley.*

In his Minute of the 5th instant, Sir C. Metcalfe has suggested that the Board of Revenue in the Western provinces be abolished, and that the three members of that Board be nominated Commissioners of Revenue in their respective jurisdictions.

I agree with Sir Charles Metcalfe in opinion, that the arrangement under which the business of the Western Board has for some time past been transacted is defective, and should not be continued.

The entire separation of the members of the Board from each other for so long a period is neither contemplated by the Regulations, nor by the instructions of Government. I am not, however, satisfied that the adoption of the specific measures suggested in Sir C. Metcalfe's Minute would promote the public interest, either as regards an immediate diminution of expense, or the improvement of the Revenue administration of the Western provinces.

It is supposed by Sir C. Metcalfe, that the dissolution of the Board would admit of the abolition of the offices of secretary and surgeon to the Board, and of all other establishments attached to the Board, except that portion which would be allotted to the senior member, on a scale similar to that which is now allowed to the second and third members respectively.

But I imagine that whether the Revenue administration be superintended by three commissioners with separate jurisdictions, or by a Board as now constituted, the preparation of the proceedings, of translations, of periodical reports and statements, and the conduct of the current business, and other details, now executed by the secretary to the Board, his assistants and establishment must still be provided for, and must demand the same degree of labour as heretofore.

Each commissioner will require the aid of a secretary or of an experienced assistant, to superintend the details above referred to; and it would, I conclude, be necessary to distribute, in fair proportions, between the three commissioners the whole of the subordinate establishments now maintained for the general duties of the Board at Bareilly.

If I am correct in this view of the case, the proposed arrangement would not be attended with any material reduction of expense; and I cannot anticipate any substantial benefit from the proposed change in other respects.

The success of our administration in every department depends much more on the qualifications, the personal character and disposition of the individuals employed in superintending and controlling others, than on the merits of the system, or forms under which that control is required to be exercised.

If Government could place full reliance on the judgment, knowledge, zeal and conciliatory disposition of each individual member of our Boards or superior Courts, I for one should cheerfully concur in the expediency of intrusting to each of those members undivided authority and control over a defined tract of country, in preference to the system now in force.

But looking to the state of the service, and to the individuals of whom our Boards and Courts are now composed, I think it safer and better, as a general rule, to restrict the power to be exercised by one individual within the limits now prescribed.

Exceptions to such a general rule, founded on special local considerations, or on the confidence reposed by Government in the character and peculiar qualifications of an individual officer, may be expedient; and in what I have above said, I do not wish to be understood as adverse to alterations clearly beneficial; but I think we should, on general principles, avoid sweeping and general changes in our system of administration, and in our laws, unless they hold out a clear and a distinct prospect of practical advantage.

April 9, 1828.

Territorial Department, the 10th Dec. 1828. (signed) *W. B. Bayley.*

No. 7.—MINUTE of Mr. *Swinton.*

The inutility of the Western Board, as a deliberative body, is apparent, from the fact stated in Sir Charles Metcalfe's Minute, that the several members of that Board have not, for the last two years, transacted business together; but this fact appears to me to prove, rather that the members are not disposed to act together, than that benefit would be derived from dissolving the Board, and making each member independent in his respective division.

The practical objections to the proposed change are so distinctly pointed out by the Governor-general in his Minute of the 9th instant, that I have only to express my entire concurrence in the view of the question taken by Mr. Bayley; with him I apprehend that the change of plan would not be attended with any considerable saving of expense; while, on general principles, it appears to me the system now in operation, of vesting the general management and control in two or more members of a Board or Court, as a collective and deliberative body, is calculated to provide against many evils and inconveniences which might be experienced, constituted as the civil service is, were one individual to be intrusted with these powers; the case might be different if the nomination to such high and responsible offices was confined to the ablest and most intelligent members of the service, without regard to seniority; but such system of selection neither exists at present to the extent here contemplated, nor could it be put in practice without creating much jealous discontent and ill-will, and probably involving in its consequences more evil than good.

With regard to the special case under consideration, a more natural remedy for the acknowledged inefficiency of the Board of Revenue in the Western provinces as a deliberative body, would be either to select less discordant materials, or to require that the existing

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members should meet once or oftener every year at the principal station of Bareilly, for the transaction of business. But this I am fully aware is more easy to propose than to execute.

It may perhaps be thought expedient, before any final decision is taken, to request the secretary to furnish a statement, showing the actual saving of expense which would result from the adoption of Sir C. Metcalfe's suggestion.

(signed) *Geo. Swinton.*

No. 8.—MEMORANDUM by Mr. *Holt Mackenzie.*

It appearing to be desirable to push on the settlement in places that present a certain prospect of a large increase of revenue, with the utmost rapidity that is consistent with the resolution of Government not to expose its subjects to the old auction system, I beg leave again to bring to notice the circumstances of the districts of Goruckpore and Allahabad.

2. The former is distinguished from all the other ceded districts, by the circumstance that the present assessment has been continued merely from year to year. A new settlement therefore, concluded before the month of Jith (or June) next, may have effect in the ensuing season. It is also, I believe, distinguished by general lightness of assessment. It is said to contain a great multitude of tenures held free without a shadow of right, and it is understood that there is much wrong to be redressed, arising out of the Revenue sales, which were unfortunately so often had recourse to in former times, nominally for the realization of the Government Revenue, too frequently as a ready means of usurpation by our native servants.

3. In the few villages of which detailed settlements were submitted by the late collector, an increase of 2,416 rupees on the jumma of 4,999 rupees was obtained, although great advantages were proposed for the Malgoozars; many villages, indeed, which were nearly waste, or stated to be so at the last settlement, are now well cultivated. The present collector is of opinion, that in the Huzoor Tuhseel, assessed at 2,22,000 rupees, an increase of 50,000 rupees might be added to the rent-roll with facility. In one pergunnah belonging to it, paying to Government 28,000, the collections made from the cultivators are estimated at 80,000 rupees. In several of the other divisions also, Mr. Armstrong anticipates with confidence a considerable increase, which there seems reason to think may be obtained not only without distress, but with much advantage to the general body of the agricultural community; for the existing assessment presses very unequally. Of the Raj of Sutassee, the Mefussil rental is estimated at 76,000 rupees, with a Government jumma of 31,000. In pergunnah Amaha, which the collector considers to be adequately assessed, the Government demand is stated by the Revenue surveyor to average only $14\frac{1}{12}$ annas for the acre of cultivated land, being equivalent to $3\frac{3}{12}$ annas in the local begah. On the total area surveyed, the average is eight annas and twelve pice per acre; an inference may thence be drawn, that Mr. Armstrong's views are generally moderate. At the same time, the results of the survey lead one to conclude, that very great inequalities of assessment prevail in the pergunnah in question, and they satisfactorily demonstrate that the records to which our officers have heretofore referred for the contents of the several villages are utterly and extravagantly false: the quantity of land held free of assessment in Goruckpore is stated at 600,000 begahs.

Sulimpoor Majhowlee -	30,000.
Butumpoor Bansee -	1,20,000.

4. In this district the villages are very numerous, being more than 11,000. The average extent of those which have been surveyed appears to be less than 180 acres. The settlement of boundary disputes is likely therefore to be troublesome, and if not settled until a permanent settlement or long leases shall give to the zemindars in rent free tenancy, every acre of land they can usurp from the neighbours, it is impossible to calculate the amount of lying litigation and violence that will ensue. Already, indeed chiefly, I believe, from the defects of our Revenue arrangements, the Goruckpore court is overwhelmed with suits. In other respects, I do not think the settlement ought to present any serious difficulties, if the officers employed understand what they are about, and are able to communicate freely with the people, and really to command their subordinates: for the soil and crops do not appear to present any very great varieties. The tenures also will apparently be found to comprise few varieties. In the excess of the collections hitherto made by the Malgoozars, there is a large fund out of which Government may richly afford such advantages to the cultivators, in respect to rates, as would soon probably obviate any unpopularity incident to the inquisition, as would fix them in comfort to their fields, and lead rapidly to further improvement. With the people in our favour, every thing will be easy. In villages of so small a size, I should not expect to find that entanglement of rights which often occurs where the properties of several hundred land-owners are scattered in patches over many thousand acres; and the records, though more numerous, will be proportionately simple.*

5. But of course every thing will be obscure and embarrassed if the European officers commence operations on a large scale, without first having thoroughly mastered details. In such a district, the native officers and most of the Sudder Malgoozars must, from the nature of things, be very averse to a survey strictly superintended. If the collector comes to know the country and the people, as Mr. Wilkinson, for instance, does those of Khoodah, and if the cultivators get assured tenures on easy rates, there will be an end of the power which

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* It is highly instructive to go over the fields of a single such village, with the record of the survey and cases combined, and then to reflect on our rules for dividing landed property, and on the operation of decrees of court, relative to the rights of coparceners (coparishioners would be a better term).

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which those men now exercise. They will consequently use their best efforts to thwart openly or covertly; then if our views be vague and indistinct, they have only to throw a little dust in our eyes to cast us altogether into darkness, and they can have little difficulty in alienating the people from us, if we constitute them the only medium of our intercourse.

6. In giving the collector assistants therefore, Government ought, I think, specifically to press upon him and upon the Board the indispensable necessity of training those assistants in a proper manner. That a knowledge of the people and their concerns may be acquired, as a Revenue and Judicial officer in an unsettled district should acquire it, the most minute details must be mastered. They are to be completely mastered only by going thoroughly into individual cases, examining link by link, and wheel by wheel, as found actually at work, the whole of the moral mechanism that binds the communities together, or serves to regulate or restrain the action of individual interests. This being done in a few instances, it will no longer be difficult to watch the workings of a thousand similar or analogous machines. The disorders to which they are subject will be easily understood and readily remedied; the varieties of scheme which may be subsequently presented will be promptly recognised; and the blunders by which we must constantly be liable to derange what we fancy we are directing, will, it may be hoped, be avoided.

7. It is in this way that knowledge is acquired in regard to every thing else, whether we look to the moral or physical world. The official education of the young civilian is too generally pursued on a different plan. He is cast within the four walls of a cutcherry, to take his share in the general government of an extensive district, before he really knows the circumstances of a single individual it contains; can we wonder if he finds or creates a chaos? He is vested in early youth with the power of the whip and the gaol; he is associated with the very worst part of the people; he is beset with the lying and litigation of wretches, who in his ignorance must find the strongest temptation to deceit: can we expect he should generally acquire the knowledge, or the habits, or the feelings that should belong to the governor of an extensive district?

8. It would, I think, be a great improvement, if collectors' assistants in the Western provinces, where every one should begin his career as assistant to a collector, were at first employed in investigating the circumstances of a single village, the sphere of their inquiries and authority being gradually extended with increase of knowledge; they should themselves see the census made and the fields measured; they should translate with their own hands all the papers, and they should daily seek the advice and instruction of the collector (half an hour after breakfast would be sufficient), till they were thoroughly masters of the most minute particular relative to the settlement and collection of the revenue. The nearest village to the sudder station of those in which the rents might be realized directly from the cultivators should be selected; and I can scarcely imagine a pleasanter or more instructive employment for a young man than to be thus engaged in managing an estate on the principle of rendering the tenants comfortable, as a preparation for the more difficult duty of governing a district so as to make the people happy. No one should be made a collector of an unsettled district, in regard to whose power of communicating freely with the people, and of reading readily all the records he has to sift and authenticate, there may exist any doubt.

9. It is quite a mistake, I conceive, to imagine that there is any serious difficulty in work of making settlements, when confined to villages which the collector can visit, or to suppose that a collector, knowing his business, need to go into an endless detail. He, indeed, who looks for certainty in what nature has left uncertain, and who does not know where to look for truth, even when before him, may be led into endless toil, and may continue to the end of time groping his way amidst the confusion he will create. Hence we are scared with objections touching the varieties of soils and seasons, as if it were our object to wring his last penny from the peasant. Hence even in matters of account, in which falsification is mathematically impossible, and where the work of a 15 rupee mutusuddee is as good or better than that of a 50,000 rupee secretary, we hear of the difficulty of check, and of the vast labour of framing a simple ledger or two. Hence mainly the prejudice against Ryotwar settlement; and it must constantly be borne in mind that the work is one in which no man, however otherwise qualified, can completely succeed, who is impatient of the details necessary to accuracy. But the details once mastered, the labour of the European officer will be comparatively light; he will have only the duty of general direction and control, and the settlement of disputes: they will be few which the people do not settle for themselves. He will compel his Umlah to work instead of slaving at their dictation. The difficulty of assessing land accurately and equally is admitted; but it is a difficulty that will diminish with every day's experience; and if moderation be the ruling principle (I use this term throughout for moderation towards the bulk of the people), with a liberal consideration for the claims of those who have long enjoyed the advantage of large profits, though by a questionable title, considerable inequalities will not much signify; and if we can gain the confidence and co-operation of the people, which may, I hope, be gained by our acts—professions are worse than useless—the course will be smooth.

10. Experience seems to have shown, that questions of private right are settled with facility, when we thus carry justice into the midst of the people, and deal with things as they are found actually existing. What is obvious, a single glance makes known; what is notorious, the boldest liar will scarcely deny, if confronted with a crowd ready to expose him. Every deserted site, the demarcation of every field, every tank, or well, or grove, or temple, tells its own story; all parts of the village institution combine, when seen in one view, to evidence the truth. In most cases falsehood must be contradictory. Nay, the very dispositions of the people seem in most places to change for the better, when kindly and fairly treated,

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treated, listened to, and understood. They show that they are not less desirous than the most privileged communities of seeing justice done, that they have not less regard for the sentiments of their fellows, and that their reputed disregard for truth is to be traced to causes common to all ignorant men, when required to answer the inquiries of the ignorant.

11. In our cutcherries every thing has to be investigated; truth and falsehood may be spoken with the same composure, for they will be received with the same gravity. Misconceptions are unavoidable. Misrepresentation is the business of hired witnesses. Ignorance is the necessary condition of those whom they address. Is it wonderful if to elicit truth be difficult? How many hours of laborious examination would be required to extract from the evidence of my hurkurahs the condition of the room I sit in, the position of the different articles of furniture, and the arrangement or disarrangement of the various boxes, and books and papers! There would be no desire to deceive, yet innumerable contradictions would occur, and after the toil of a long investigation, the mind would arrive at a conception infinitely less accurate and complete than the eye view of a single minute would afford. It is the same with much that has to be recorded relative to a village. I lay this stress upon the matter, because I believe nothing has stood so much in the way of the plan of detailed settlement as the apprehensions of difficulties, which a Madras or Delhi man would laugh at, and which in truth have no solid foundation; and because if those apprehensions were well founded, we should find comparatively few men capable of doing what is desired; whereas my persuasion is, that we need care for little but plain good sense, good temper and integrity, and the disposition to prosecute the work with an honest desire of doing justice to the people and to Government. The command of language and the technical knowledge necessary, will come rapidly with practice, if the practice be of the right sort.

12. I have no apprehension therefore of any difficulty in finding an abundant supply of fit instruments among the young men of the civil service, if they are only put into the right way. The duty will soon, I trust, come to be a popular one, if care be taken that those who labour to discharge it do not suffer in their prospects. For intrinsically there are few things that can gratify more than the consciousness of having given that comfort and security to a number of our fellow men, which a good settlement ought to give.

13. With the above views, it appears to me desirable that three intelligent officers should be appointed to superintend the six tuhsuldars of Goruckpore, as assistants or deputy-collectors, and one to aid the collector in the settlement of the Huzoor tuhseel. In Allahabad, also, some special arrangement of the kind would seem to be desirable. Of the Revenue affairs of this district, the latest Report is that which I received from Mr. Dunsmure, in reply to a circular sent to all the collectors of the Western provinces, which is hereunto annexed.

14. As far as concerns the mere realization of the Government jumma, the result is sufficiently satisfactory; but if it be any part of the duty of Revenue officers to see that the amount realized for the public service bears a due proportion to the sums levied from the community, the settlement so candidly made by Mr. Dunsmure seems to evince the existence of serious defects in the administration of the district. The plan of deputing sezawals to collect from a portion of the cultivators the revenue to which all should contribute, ought surely to be discontinued. It is monstrous thus to leave the malgoozars in the enjoyment of large profits, and to relieve them from the duties and responsibility of Revenue engagers. If arrears accrue, there can be no difficulty in applying advantageously for Government and the people the rule contained in Section iv. Regulation IX. 1825. But further, it is now more than five years since Regulation VII. 1822 was published; yet little has been done towards its execution in Allahabad. Now, throughout the greatest part of the district, a system of money collections by middle men prevails. On both sides the Ganges it touches on Benares, where the produce of the different crops in different kinds of soil, and the rents collected from the cultivators, may be ascertained with comparative ease. The revision of the assessment might consequently, I conceive, be made with great facility and promptitude, though the villages are of small extent and proportionally numerous.

15. Here, as elsewhere, the native officers may naturally be expected to raise up many artificial difficulties. They certainly have had a rich field for those illicit gains which constitute, doubtless, the chief motive of their hitherto successful efforts at mystification.

16. From Mr. Dunsmure's Report, it will be seen that that gentleman estimates the profits of the malgoozars of pergunnah Khymgurh, at Rs 2,13,000, in a jumma of about 3,37,000 rupees; and for the pergunnah Bura, paying Government only Rs 1,05,000, a Mocuddumee settlement has actually been concluded on behalf of, and for the benefit of, the restored malgoozar, with a jumma of Rs 2,23,000, the Mofussil rental of the raja of Benares for 1233, having been Rs 2,38,000. The last-mentioned mehal was, it appears, exempted from the general rule for the extension of leases in the ceded provinces, under the discretion specifically reserved to the Boards and collectors, in Clause 4, Section ii. of Regulation II. 1826. It is consequently now open to settlement.

17. There appear to be many other estates, of which the Government jumma is still more disproportionate to the sums demanded from the cultivators; and though of course the calculations cannot, from their nature, pretend to a minute accuracy, they seem to leave no doubt of the fact, that the district in question presents a very large fund, applicable to the objects of improving the public finances, and ameliorating the condition of the people. Every thing I saw and learnt in passing through the district was calculated to confirm the persuasion, that the profits which accrue to the Government engagers are excessive; and if I should venture to form any judgment on such imperfect grounds, I should be disposed to conclude that the rates of rent levied from the cultivators are not generally burthensome.

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In some cases possibly it may be necessary to allow certain abatement; for it is the misery of our past management, that in proportion as the wealthy are favoured, the poor are oppressed. But on the whole I consider it certain, that by a settlement made on the principles prescribed in Regulation VII. 1822, we may obtain a very considerable increase of Revenue, and at the same time confer a great blessing on the body of the agricultural community. The leases have generally to run to the expiration of the year 1239, until which time the Government jumma cannot be altered. But no time need be lost in ascertaining and securing the rights of the people; and we may probably find in the resumption of illicit alienations the means of adding, during the progress of the settlement, no inconsiderable sum to the Government rental.

18. The tuhsuldars are all spoken of by Mr. Dunsmure in the highest terms; when they are satisfied, therefore, that the Government is serious in desiring to have a detailed settlement effected, we may expect from them good assistance in carrying the measure into effect; and moderation as to the rates of assessment (I mean of course in the demand made, or allowed to be made, from the industrious cultivator) will probably secure for us the co-operation of the people. That gained, our collectors, if really fit for their situations, will become comparatively independent of all excepting mere mechanical aid, which may be easily and cheaply procured. They will then be in truth, and not in name only, the masters of their offices and heads of their districts; the difficulties which now beset them will speedily disappear, and the work of settlement making will become equally easy of execution, and gratifying in its results. But the power of conversing familiarly with the people, and of reading readily all Persian papers, at least (accounts not presented to the eye can never convey to the mind any clear conception) must be insisted upon; and before attempting to control others, the European officer must himself thoroughly be master of every the minutest detail of the work he requires from them.

19. With proper assistance, the collector might, I should conceive, effect the settlement of the whole district in five or six years, if we may judge of its extent from the recorded rucba.

20. It contains, it will be seen, about 5,000 villages, comprising about 23,00,000 of begahs. To complete the investigation and record of details for this extent of country, in the manner accomplished by Mr. Fane and Mr. Fraser, would require, I imagine, about eighty-four parties, or about seventeen, if we allow five years for the work.

21. The peshkar of the Huzoor tuhseel, which includes a collection of nearly 9½ lacs, cannot, I should suppose, have any time for superintending settlement proceedings. It would probably be advantageous to break down that department into several distinct tuhseeldaries. The talookas, indeed, of Khyragurh and Bara alone exceed in the number of their villages and amount of revenue most of the tracts that have been placed under separate European officers. To this division of the collectorship, nine out of seventeen parties would properly belong, eight being assessed to the other divisions; of these the tuhseeldars could easily, I conceive, superintend the work, if, as I presume, they deserve the character which Mr. Dunsmure gives them. The Handya pergunnah, if not more extensive than is stated, might indeed be settled almost in two years by a single party; and the tuhseeldar of that place was one of the few I saw, who, when pressed with particulars, maintained the facility with which he could ascertain all we desire to know, under any responsibility that might be thought proper. The jumma of the pergunnah, amounting to about two rupees per begah on the recorded rucbah, while the aggregate of the district yields less than 14 annas, it is not likely that any large increase is in this case to be looked for; but the adjustment of private rights and the other benefits to the people, which will, it is hoped, result from a revision of the settlement, are not less important objects of the collector's care.

22. If the settlement is to be made in the course of five or six years, the collector must, I apprehend, have the aid of several good assistants or deputies, who, under his general direction, could apply the checks which the proceedings of the native officers will require, and finally complete the necessary local arrangements. Two officers would find ample employment in the Dooab and the pergunnahs; and tracts of country to the north and south would seem naturally to require separate superintendence.

23. Considering the importance of the work, both to Government and to the people, I would again venture to submit the expediency of withdrawing from the judicial line some of the most promising of the young men who hold, or are about to obtain, the situation of register, and of appointing them assistant or deputy collectors, with suitable allowances. During the heats and the rains they should reside at the sudder station of the zillah; and even when out in their districts, they should be guided by such instructions, official or unofficial, as they may receive from the collector, in the manner prescribed for the sub-collectors of Bundlecund.

24. After going thoroughly into the detail of a few villages, they will, I venture to affirm, have acquired more real experience than is to be gained by half a century of kutcherry work; and though I of course look immediately to the advantage of the Revenue branch, the Judicial administration will ultimately gain no less importantly. I annex a list, from which it will be easy to make a selection.

25. In conclusion, I would beg permission to suggest, whether it would not be advisable to fix Mr. Dunsmure at Allahabad, where he has now been acting as collector since December 1825; he might remain, with the allowances drawn by him as collector of Bundlecund (Rs 2,383) as joint collector, even supposing Mr. Fane to return. There would be abundant work for both, so long as the settlement is in progress; and before it is completed, should Mr. Fane continue so long at Allahabad, there will be a thousand opportunities

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tunities of otherwise providing for Mr. Dunsmure: We should thus derive all the benefit of his experience in the district which he has managed for three years, and get rid of the uncertainty and inconvenience of an acting appointment.

(signed) *Holt Mackenzie*,
Secretary to the Government.

13th November 1828.

(E.)

LETTER from *John Dunsmure*, Esq. Acting Collector at Allahabad, to *Holt Mackenzie*, Esq. Secretary to Government.

Sir, 16th February 1828.

I HAVE the honour to submit the Statement called for in your Letters of the 26th of November and 3d of January last.

2. You will observe that the outstanding balances in this district for the five past years amount to Rs 5,409. 12. 10. In the past Fusly year 1234, there was only a small balance of Rs 462. 12. 15. on Rs 1,80,750. 12. 10. 1. the assessed jumma; and this would have been realized had it been possible; but it is on account of three estates bordering on the Oude territory, which are under Khaum management, the assets of which I have satisfactorily ascertained are not equal to the Government demand. These estates have lately been measured, and it is my intention to proceed to a re-settlement of them at an early period. The expenses of Mofussil establishment vary from Rs 1. 1. 2. 2. to Rs 4. 2. 9. 3. per cent. on the jumma of each division. The annual amount chargeable to the malgoozars for Tulubana and Shahengee averages, on the three past years, from 5 *as.* 2 *g.* to 13 *as.* 18 *g.* 2 *c.* per cent. on the total amount of collections from each tehsuldaree.

3. There are certain estates in each division, to which I find it absolutely necessary to depute sezawals, for the purpose of securing the public demand; but this measure is not called for from any want of assets; on the contrary, I know, from access to the village accounts, that the assets in several of them bear a twofold proportion to the Government jumma. This proceeding is rendered necessary, from the refractory conduct of the zemindars, and the dissensions which exist amongst them. In the Husoor tehseel department, there are nineteen estates assessed with a jumma of Rs 1,32,507. 13. 2. 3; in the Secundra tehseeldaree, ten estates assessed at Rs 47,195; in the Kurrah division, twenty-five estates assessed at Rs 49,442; and in Handyah tehseeldaree, nineteen estates assessed at Rs 29,092. 2. 2; to which, at the commencement of each year, I judge it necessary to depute sezawals, for the purpose of making the collections, without which the Government dues would be exposed to much risk. In these instances, however, if the zemindars give security for the payment of the public demand, the attachment is immediately withdrawn. The expense attendant on the deputation of sezawals in no one instance exceeds five per cent. on the jumma of the estate; and I make it a special point of my duty to render the charge on this head as light as possible. On these occasions the sezawals call upon the zemindars to give assignments, jumagogues, as they are termed, on their tenants, and they accordingly make over a list of such ryotts whose rents will cover the Government demand; and the latter execute engagements to pay the same to the sezawal instead of to the zemindars. This system is in full accordance with ancient custom, and the zemindars express no unwillingness to enter into these jumagogues.

4. The Government collections from this district are, with one exception, made in nine kists, Koor, Catick, Aughun, Poos, Maug, Phaugun, Cheyt, Bysack, and Jeit. The exception is the pergunnah of Handyah, where the Revenue, as under the Newaub Viziers' Government, is paid in eight kists of two annas each, ending with Bysack. The kists vary in all the pergunnahs, it having been found necessary to adjust them, with advertence to the extent of the Khuruf and Rubbeco lands. The Aughun and Cheit kists are the heaviest, the former being 2 ½ annas and three annas, and the latter two and three annas; the other kists are, generally speaking, 1 ½ anna each. The zemindars make their collections from the ryotts in eight kists, commencing in Bhaudoon; but the first requisition made by them is more in the form of an intimation than a demand. Their regular kists, as entered in the village account, are from Koor to Bysack. The Government demand is nearly, I may say exactly, simultaneous with that of the zemindars from their ryotts, commencing from the 15th, or Amouse, as it is designated, of Koor.

5. The alienations and transfers of landed property have not, with the exception of those estates which have come under the cognizance of the Mofussil Special Commission, been very numerous. During the last five years it affords me much gratification to report, that not a single estate, or the portion of any one, has been sold for arrears of revenue; indeed the last estate sold on this account was so far back as the Fusly year 1227; within the same period, two estates and four puttees only, assessed at Rs 1,137 per annum, have been sold in satisfaction of decrees of court. During the last five years, five estates have been transferred by mortgage, the assessed jumma of which is Rs 5,028, and 53 ½ puttees. Five estates, assessed at Rs 7,886. 12. 13. and 70 puttees, have been transferred by private sale; but there is generally in these cases an understanding between the parties, that the purchase is to be relinquished in ten or fifteen years, though this agreement does not appear upon the record. Two estates, assessed at Rs 4,513, and two puttees, have been transferred by gift; and sixteen estates, assessed at Rs 14,206. 2. 10. have been transferred under precepts received from the zillah court. The number of estates restored to the former zemindars under decrees passed by the Mofussil Special Commission is 96, assessed with a jumma of Rs 2,868. 26. 7. 14. The total amount of jumma assessed on the property transferred within the last five years, under the orders of the court and collector, is Rs 32,770. 15. 3. gunds.

6. I further

6. I further beg to state, that only in two instances during the last five years has it been found necessary to proceed to the distraint and sale of personal property for the realization of the Government Revenue. The number of estates resigned and taken under Khaum management from 1230 to 1233 was four, assessed with a jumma of Rs 4,345, and of these the resignation of one was recalled from 1234 Fusly. Of the total sum of Rs 5,409. 12. 10. outstanding in this district on account of balances for the past five years, the sum of Rs 4,843. 1. is due from the above Khaum estates, which are unquestionably over-assessed, and which sum may therefore be said to be a mere nominal balance, leaving a real balance of Rs 566. 11. 10. outstanding from 1230 to 1234 Fusly, which I hope to realize ere long. The total expense of Mofussil establishment is Rs 43,164 per annum, which, with reference to the rent-roll of the district, Rs 1,80,750. 12. 10. 1. would appear to be about Rs 2. 4. 18. 1. per cent.

7. I shall now proceed to offer a few remarks on the existing assessment of this district, commencing with the Huzoor tehsul department. The pergunnah of Kyroghur first claims attention from its extent and capabilities. It is divided into six talookas, comprising 811 villages, and pays a revenue to Government of Rs 3,36,893. 13 *as.*; with the exception of two estates, the remainder of the pergunnah appertains exclusively to Loll Roodun Pertaub Sing. From papers and accounts which have been given in to me, I have reason to believe, that the receipts of the zemindar do not fall short of Rs 5,50,000. The adjoining pergunnah of Banah, assessed with a jumma of Rs 1,05,101, has lately been restored to the former zemindar, by name Juggut Raje, who is the sole proprietor under a decree passed by the Mofussil Special Commission. It was sold at the end of 1802, and purchased by the rajah of Benares for Rs 93,000. The proprietor, Juggut Raje, and his son Chutturput, being both incompetent to manage this fine zemindaree, I solicited and obtained the permission of Government to take charge of the pergunnah in their behalf, and made a settlement of it with the several village mocuddums from the current Fusly year, maintaining, with some exceptions, the leases of the three past years. The amount of the rajah's settlement in 1233 was Rs 2,38,000; the settlement I have concluded with the village mocuddums amounts to Rs 2,22,931. I commenced measuring this pergunnah last year; it comprises 296 villages, 46 chucks and eight muzzahs.

8. In the four other pergunnahs which appertain to the Huzoor tehsul, there are, I think, nineteen estates, paying, Rs 34,799, which may be said to be unequally assessed, though I am not prepared to state that the jumma is oppressive, for I do not think it is so in any one instance. But adverting to the assessment and assets of some other estates in these pergunnahs, the comparative inequality of the jummas is certainly very striking; for instance, in the pergunnah of Arail there is a talooka called Koolmay, assessed at Rs 35,000, which is known to yield upwards of 60,000. The talooka of Punassa, also assessed at Rs 25,295, does not yield less than Rs 55,000. These two large talookahs have just been measured preparatory to a re-settlement, and the village accounts seem fully to establish the above-mentioned facts. Again, in the same pergunnah the jumma of talooka Iradut gunge is Rs 28,800, supposed assets 64,000; talooka Poorma, which pays Rs 16,777, is stated to yield 28,000; talooka Lohain, assessed at Rs 12,831, has assets to the extent of 23,000; and the talooka of Kain, which pays a jumma of Rs 11,440, is estimated to yield 22,000. These are the most striking instances of inequality in the pergunnah of Arail; but almost all the estates are very lightly assessed. The same may be observed in regard to the three other pergunnahs, Jhoosee, Chail and Choukundhee.

9. In the Secundra tehsuldaree, there are eighteen estates in pergunnah Secundra, four in Meh, and four in Mirzapore Chouharee, assessed at Rs 2,193, the jummas of which are high in comparison with the other estates, but, generally speaking, the assessment is pretty equal. In the Seraom division there are only six estates settled at Rs 4,113, which may be said to be heavily assessed. But as in the Huzoor tehseel, there are some estates very lightly assessed; for instance, talookas Chupree, jumma 11,995, assets 22,000; Mendara, jumma 15,000, assets 27,000; Abdalpoor, jumma 12,800, assets 25,000; Poorubnara, jumma 10,500, assets 19,000; Serai Bhamt, jumma 12,815, assets 20,000 rupees.

10. The pergunnah of Handyah, which constitutes a separate tehseeldaree, was acquired by treaty from the Newaub vizier in 1224 Fusly, and, so far as I can judge, is equally and moderately assessed. It is a troublesome division, from the turbulent and refractory spirit which characterizes the zemindars, who are chiefly rajpoots. The realization of the public revenue was tardy, and effected with considerable difficulty two years ago; but with the aid of an active, intelligent and very respectable tehsuldar, who is in charge of the pergunnah, I am happy to say that the division is now second to none in the punctuality with which the kists are collected.

11. In the Kurrah division there are 24 estates, settled at Rs 15,299, which appear to me somewhat heavily assessed. Both the pergunnahs of Kurrah and Kerallee have acquired a very considerable increase of cultivation since the last settlement on 1220 Fusly, from large tracts of jungle land having been cleared. The estates generally in these two pergunnahs are inadequately assessed. The pergunnah of Atherban, which constitutes a neabut, and is attached to the Kurrah tehseeldaree, has not the same advantages: the land is of an inferior quality; added to which, a great many estates were sold previous to 1217 Fusly; and though the old zemindars have in many instances been reinstated by the Mofussil Special Commission, yet they are extremely poor, and some time must elapse before we see that improved state of things which characterizes the district at large.

12. I have to apologize for not having submitted this statement earlier, but some delay has taken place in receiving replies to references which I found it necessary to make on certain points.

I have, &c.
(signed) *John Dunsmure*,
Acting Collector.

Allahabad Collectorship,
16th February 1828.

DIVISIONS.	NUMBER OF VILLAGES.															REPUTED RUCBA.						Supposed Number of Zemindars.	Number of Persons under Engagements, or managing as Mocuddums.	PRESENT ASSESSMENT.			
	KHALSA.								LAKHRAJ.							KHALSA.			LAKHRAJ.								
	Mouzahs.	Annas.	Beegahs.	Biswahs.	Chucks.	Puttees.	Arazees.	Muzras.	Mouzahs.	Annas.	Biswahs.	Chucks.	Puttees.	Arazees.	Muzras.	Beegahs.	Biswahs.	Doors.	Beegahs.	Biswahs.	Doors.			Rupees.	Annas.	Gundas.	Cowries.
HUZOOR TEHSUL:																											
Pergunnah Arail - -	370	–	–	–	50	–	–	–	5	–	–	27	–	7	–	169,837	18	–	4,129	2	10	308	168	2,03,468	13	12	1
Ditto - Chail - -	510	–	–	–	9	25	9	–	57	–	–	4	1	11	–	219,970	17	–	22,947	–	–	934	575	93,888	8	14	–
Ditto - Jhoosee - -	518	–	–	–	1	–	–	–	1	–	–	10	–	4	–	111,541	9	–	1,520	–	–	436	191	1,18,412	5	12	2
Ditto - Barrah - -	283	–	–	–	43	–	–	7	13	–	–	3	–	–	1	200,923	–	–	5,036	–	–	1	1	1,05,101	–	–	–
Ditto - Khyraghur -	749	–	–	–	–	–	–	–	62½	–	–	–	–	1	–	492,834	–	–	28,519	–	–	7	7	3,36,893	13	–	–
Ditto - Choukundee -	2	–	–	–	–	–	–	–	–	–	–	–	–	–	–	5,068	9	–	–	–	–	–	1	350	–	–	–
TOTAL - -	2,432	–	–	–	103	25	9	7	138½	–	–	44	1	23	1	1,200,175	13	–	62,151	2	10	1,686	943	9,40,814	18	3	–
TEHSULDAREE, PERGUNNAH SECUNDRA, &c.:																											
Pergunnah Secundra - -	569	14	–	–	–	–	–	–	22	2	–	–	–	–	–	118,377	2	10	3,616	–	–	475	243	1,34,456	–	–	–
Ditto - Meh - -	278	–	–	–	–	–	–	–	5	–	–	–	–	–	–	88,931	–	–	1,959	–	–	375	142	1,19,551	–	–	–
Ditto - Mirzapore Chowheree - -	21	4	–	–	–	–	–	–	11	4	–	–	–	–	–	10,483	7	–	5,590	15	10	124	58	12,305	–	–	–
TOTAL - -	869	2	–	–	–	–	–	–	38	6	–	–	–	–	–	217,791	9	10	11,165	15	10	974	438	2,66,312	–	–	–
TEHSULDAREE, PERGUNNAH SOHRAON, &c.:																											
Pergunnah Sohraon - -	371	–	–	–	3	–	–	–	7	–	–	1	–	–	–	115,045	15	–	1,821	–	–	407	289	1,23,347	9	15	–
Ditto - Newaub Gunge	194	–	–	–	6	–	–	–	5	–	–	3	–	–	–	89,661	–	–	1,934	–	–	165	120	77,318	–	–	–
TOTAL - -	365	–	–	–	9	–	–	–	12	–	–	4	–	–	–	204,706	15	–	3,755	–	–	572	409	2,00,665	9	15	–
TEHSULDAREE:																											
Pergunnah Handyah -	221	–	–	10	53¼	–	–	–	–	–	–	–	–	–	–	63,842	11	–	–	–	–	304	287	1,27,077	1	16	2
TEHSULDAREE, PERGUNNAH KURRAH, &c.:																											
Pergunnah Kurrah - -	344	–	–	10	28½	–	35	–	50	–	10	23½	–	129	–	228,850	19	10	34,872	8	10	656	513	1,57,167	8	–	–
Ditto - Keralee - -	303	–	–	10	26	–	–	–	–	–	–	20	–	194	–	167,350	7	–	3,528	6	–	409	203	93,177	–	–	–
Ditto - Atherban -	118	–	–	15	–	1	–	–	–	–	–	–	–	94	–	47,310	16	15	3,981	6	–	454	269	85,537	–	–	–
TOTAL - -	766	–	–	15	54½	1	35	–	50	–	10	43½	–	417	–	493,512	3	5	42,382	–	10	1,519	1,085	3,35,881	8	–	–
GRAND TOTAL - -	4,854	2	–	52	19¼	26	44	7	23	9½	6	91½	1	440	1	2,180,028	11	15	119,453	18	10	5,056	3,207	1,730,750	12	10	1

Zillah Allahabad,
6th February 1828.

Balance outstanding on account of the past 5 Years, and from 1230 to 1234 Fasly.				EXPENSE of fixed Mofussil Establishment.				Number of Dustuks issued in the 3 past Years.	Number of Persons employed in serving the same.		Amount of Dustukkana, chargeable during the same Period.				Number of Cases in which Shahenas have been placed over the Crops during the same Period.						Number of Shahanas employed during the same.	AMOUNT chargeable for Shahanas.				Number of Persons confined in Gaol during the same time, for Arrears of Land Revenue.	PERIOD of IMPRISONMENT.					
																											Longest.		Shortest.		Average.	
Rupees.	Annas.	Gundas.	Cowries.	Rupees.	Annas.	Gundas.	Cowries.		Peons.	Sawers.	Rupees.	Annas.	Gundas.	Cowries.	Mouzas.	Biswahs.	Doors.	Chucks.	Puttees.	Arazees.		Rupees.	Annas.	Gundas.	Cowries.		Months.	Days.	Months.	Days.	Months.	Days.
-	-	-	-	-	-	-	-	948	1,461	26	2,095	2	-	-	91	10	10	-	-	-	29	123	14	-	-	6	1	28	-	24	1	11
-	-	-	-	-	-	-	-	1,160	1,498	15	2,342	6	10	-	68½	-	-	-	3	1	32	275	4	-	-	3	-	27	-	27	-	27
-	-	-	-	-	-	-	-	842	1,284	24	2,482	8	-	-	147	-	-	-	-	-	66	372	9	-	-	32	12	22	1	8	7	-
-	-	-	-	-	-	-	-	171	213	2	665	4	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	76	439	8	660	10	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	10,068	-	-	-	3,197	4,895	75	8,245	14	10	-	306½	10	10	-	3	1	127	771	11	-	-	41	15	17	2	29	9	8
1,863	9	-	-	-	-	-	-	1,815	1,984	53	2,861	2	10	-	104	-	-	-	-	-	143	644	12	-	-	5	1	25	-	20	1	7½
-	-	-	-	-	-	-	-	1,371	1,431	32	1,518	3	10	-	19	-	-	-	-	-	35	131	10	-	-	6	2	23	-	2	1	12½
1,932	7	15	-	-	-	-	-	172	195	6	355	14	10	-	8	-	-	-	-	-	15	72	-	-	-	5	-	15	-	3	-	9
10,926	-	15	-	9,132	-	-	-	3,358	3,610	91	4,735	4	10	-	131	-	-	-	-	-	193	848	6	-	-	16	5	3	-	25	2	29
1,510	-	5	-	-	-	-	-	1,227	1,364	7	1,372	12	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	834	913	6	939	9	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
1,510	-	5	-	6,876	-	-	-	2,061	2,277	13	2,312	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
-	-	-	-	5,280	-	-	-	1,662	1,897	69	3,003	1	-	-	50	-	-	-	-	-	85	308	12	-	-	6	-	27	-	5	-	16
-	-	-	-	-	-	-	-	615	687	4	1,429	11	-	-	29	-	-	-	-	-	45	316	-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	275	343	4	661	8	-	-	4	-	-	-	-	-	4	25	8	-	-	1	-	21	-	21	-	21
973	11	10	-	-	-	-	-	346	499	10	914	14	-	-	19	-	-	-	-	-	45	298	-	5	-	24	47	47	-	3	23	25
973	11	10	-	11,808	-	-	-	1,236	1,529	18	3,006	1	-	-	52	-	-	-	-	-	94	640	8	5	-	25	48	8	-	24	24	16
3,499	12	10	-	43,164	-	-	-	11,514	14,208	266	21,302	10	-	-	539½	10	10	-	3	1	499	2,569	-	5	-	88	69	25	4	23	37	9

(signed) *John Dunsmure*,
Acting Collector.

Appendix, No. 3.

Commissioners of Revenue and Circuit.

(F.)

LETTER from *John Dunsmure*, Esq., Acting Collector of *Allanabad*, to *Holt Mackenzie*, Esq., Secretary to Government in the Territorial Department.

Sir, 5th March 1828.

I HAVE the honour to submit the Statement regarding the several tehseeldars under my authority, agreeably to the form which accompanied your letter of the 4th ultimo.

2. It is to me no small pleasure to be able to record the very favourable opinion which I entertain of these several officers. The peishkar of the Huzoor tehsul, Bhowannee Pershaud, owes his elevation entirely to his merits, and a more zealous, active and intelligent officer I have never met with. The very creditable manner in which he manages his extensive and troublesome charge has frequently been brought under the notice of Government, and obtained its approbation. For nothing is this officer more distinguished than the ready and satisfactory way in which he adjusts differences amongst the zemindars, a most essential qualification in a tehseeldar. The next officer to be noticed is Rujub Ally, the tehseeldar of Secundra, Meh and Mirzapoor Chowhary. This individual was formerly nazeer in the collectorship, was afterwards nominated to the Kewaee, and subsequently to the Ghazeepore tehseeldaree, where I found him when I took charge of this office. This last division, which is in the Futtehpore district, constituted a very easy charge indeed; and as it appeared to me that the services of Rujub Ullee might be beneficially employed in a more troublesome situation, I removed him to his present tehseeldaree, which, from bordering on the Oude territory, and being in some places quite intersected by it, requires an active officer for its superintendence. His predecessor, I discovered, was ignorant of the Persian language, and a most useless officer; like the peishkar of the Huzoor tehseel, he possesses great management with the zemindars, so much so, that in cases of importance, I have deputed him out of his tehseeldaree into another to adjust matters.

3. The tehseeldar of Sohraon and Newaubgunge, Mirza Kullub Hussein Khan, is a most respectable, well-educated, and I am sure I may add, upright officer. He was first appointed naib tehseeldar of pergunnah Keralee, in which situation he gave me so much satisfaction, that I was happy in having it in my power to nominate him to a more extensive charge. Though not so experienced as the other tehseeldars, his zeal and activity render him not the less useful, and I feel confident that he will always merit the favourable opinion of those over him. Shah Abdool Bosset, the tehseeldar of Handyah, is descended from a highly respectable and once affluent family, in the town of Sahsaraon, district of Shahabad. He was originally attached to his present tehseeldaree, but subsequently removed to that of Ghazeepore, and afterwards to the Futtehpore division, which used to be a troublesome one. On the

NAME of PERGUNNAHS.	ASSESSMENT.				NAME of TUHSELDAR.	SALARY.				Period of Service of a Revenue Officer of the British Government.	AGE.	RELIGION.	TRIBE.
HUZOOR TEHSEEL.													
Arail	2,03,468	13	12	1	Bhowannee Pershaud	140	–	–	–	24 years	46 years	Hindoo	Kyett
Chail	1,73,888	8	14	–									
Jhoosee	1,18,412	5	12	2									
Khyraghur	3,36,893	13	–	–									
Barrah	1,05,101	–	–	–									
Choukhundree	3,500	–	–	–									
	9,40,864	8	18	3									
Secundra	1,34,456	–	–	–	Rujub Ally	175	–	–	–	20 ditto	45 ditto	Musulman	Syed
Meh	1,19,551	–	–	–									
Mirzapore Chowhary	12,305	–	–	–									
	2,66,312	–	–	–									
Sohraon	12,347	9	15	–	Mirza Kullub Hosein Khaun	150	–	–	–	2 ditto	30 ditto	ditto	Moghual
Newabgunge	77,318	–	–	–									
	2,00,655	9	15	–									
Handyah	1,27,077	1	16	2	Shah Abdool Bashit	150	–	–	–	12 ditto	42 ditto	ditto	Shaikh

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

the separation of the Futtehpore district from this collectorship, Shah Abdool Bosset resigned his situation. About this time, I was compelled to remove the then tehseeldar of pergunnah Handyah, by name Hinya Mull, from his office; this person had formerly been abkaree darogha in the collectorship; bred up as a mohajun, his ideas embraced no wider scope than figures; added to which, I discovered that he was concerned in a kotee established in the city of Allahabad, which entirely engrossed his attention; as he moreover was not an honest man, I obtained the Board's permission to dismiss him, and to nominate Shah Abdool Bosset to be his successor. The manner in which he had formerly managed this most troublesome division determined me to re-appoint him, and I am happy to say that, by blending conciliation with firmness (a qualification most requisite in this pergunnah), he performs his duties just as I could desire, and his tehseeldaree is second to none for the punctuality with which the collections are made.

4. The tehseeldar of Kurrah, Ally Juma, is an officer of very considerable experience; he was formerly tehseeldar of Hutgaon, in the Futtehpore district, but as this was a very easy charge, I removed him to the Soraon division, which borders on the Oude territory. He is a very active and intelligent officer, and gave me much satisfaction; and more recently, when commissioners were appointed to settle some long pending boundary disputes between the zemindar of this and the Oude territory, Ally Juma rendered himself very useful to the magistrate, who has expressed in very favourable terms the valuable assistance he received from him. The Kurrah tehseeldaree becoming vacant, the salary of which is higher than that of Sohraon, I consider it my duty to nominate him to that division. The naib of Keralee, Shark Fuzzul Ally, is an officer who stands very high indeed in my opinion. If he is not very brilliant, he makes up for it by his honesty, a quality which every body of every class accord to him, and I believe most justly so. He was long employed as a sezawal, in the Kerabe pergunnah, and is well acquainted with the people, who will, I believe, find in him a character that is very rarely met with. The peishkar of the adjoining pergunnah of Atherbun is an old servant, and has risen from the ranks; he was formerly peishkar (but with no separate charge as at present) under the tehseeldar of Hutgaon, in the Futtehpore division. The former peishkar attached to Atherbun, not giving me satisfaction, I sent him to Hutgaon to be under the eye of a tehseeldar, and appointed Sheodial Sing to succeed him. With a little looking after, he makes an active officer, of which the pergunnah stands in need, for the zemindars are both poor and troublesome.

I have, &c.

(signed) *John Dunsmure*,
Acting Collector.

Allahabad Collectorship, Camp Phoolpoor, 5th March 1828.

Birth-place, Pergunnah & District to be mentioned.	Period of Employment in present Situation.	REMARKS.
-- Mowzau Kythoulee, Ph Secunderpoor, Zh Ghazeepore -	6½ years -	-- This officer was formerly wansil bankee novees in this office, from 17th January 1805 to the end of 1809; in 1810 he was appointed naib serishtadar, and remained in this situation until 1821; in 1822 he was nominated to be peishkar of the Huzoor tehseel, and has been attached to this office ever since.
-- Khas Narnaul, Ph Narnoul Sooba Shahjanabad -	2 years -	-- The tehsildar was appointed nazir of the collectorship in 1810, in which situation he remained to the end of 1823. In 1824 he was nominated to the tehseeldaree of Kewaee; in 1825 he was sent to the Ghereepore tehsildaree, in the Futtehpore division. Towards the close of 1826 he was appointed to his present office.
-- Goruckpore Khas, Zillah Goruckpore - -	8 days -	-- This officer was formerly acting as a tehseeldar in the Goruckpore district. On the 27th May 1826, he was appointed naib tehsildar of pergunnah Kerala. On the 26th of February 1828 he was nominated to his present office.
-- Kusbasusaraon, Pergh Susuraon, Zillah Shahabaud -	1 year	-- This officer was nominated to the tehseeldaree of Handyah in 1817, and remained in this pergunnah till the end of 1822. In 1823 he was appointed tehsildar of Ghazeepore, from which office he was removed the beginning of 1826 to the tehseeldaree of Futtehpore, where he remained till the middle of 1827, when he was appointed tehsildar of pergunnah Handyah.

(*continued.*)

NAME of PERGUNNAHS.	ASSESSMENT.	NAME of TUHSELDAR.	SALARY.	Period of Service of a Revenue Officer of the British Government.	AGE.	RELIGION.	TRIBE.
Hurrah - - -	1,57,167 8 - -	Ally Juma -	175 - - -	26 years	47 years	Musulman -	Syed -
Keralee - - -	93,177 - - -	Shaikh Fuzzal Ally Naib -	50 - - -	24 ditto	5 ditto	- ditto -	Shaikh
Athurbun - - -	85,537 - - -	Sheodial Sing Peishkaur -	30 - - -	20 ditto	47 ditto	Hindoo -	Kyet -

Zillah Allahabad,
5th March 1828.

(G.)

LETTER from *James Armstrong*, Esq., Collector of *Goruckpoor*, to *Holt Mackenzie*, Esq., Secretary to the Government.

Sir, 2d April 1828.

I HAVE the honour to acknowledge the receipt of your letter, under date the 26th November, requiring a Statement for each of the divisions of this district, according to the form annexed thereto; and in reply, beg to submit herewith the accompanying Statement in English.

2. It may be necessary to state that the amount of the land revenue of the district, as specified in the Towjee, is Rs 37,430. 11. 10. less than that exhibited in 7th column of the Statement. The difference arises from the increase in the jumma of the estates settled under Regulation VII. of 1822, together with the additional revenue derivable from the late assessment of resumed and Towfeer lands, which are still pending the sanction of the Board; without which, neither the increased jumma, nor the estates for the first time assessed, can be placed upon the public rent-roll.

3. In the size of the begah throughout the district, there is the greatest discrepancy, the begah of one pergunnah seldom corresponding with that of the adjoining one; indeed in the same pergunnah the extent of the begah varies. In the past settlements, this was not taken into consideration by the canoongoes in furnishing douls, who regulated their estimates of the rucba by the puckha begah, without reference to the consuetudinary one of the pergunnah or tuppa; and for the sake of uniformity, the same rule has been observed in preparing this Statement, which, as to the number of begahs in each pergunnah, is not deserving of much credit.

4. The assessed jumma of the Huzoor tuhsal is very inadequate; an increase of not less than forty or fifty thousand rupees might be added to the yearly demand, by a mere summary revision of the present assessment. I have lately had occasion to procure from the Mofussil officers a statement of the land in cultivation, and the rate of rent in pergunnah Gujpoor, in which the collections are estimated at 80,000 rupees, though only paying a yearly jumma to Government of 27,867. From the circumstance of the pergunnah having been for some years past under the jurisdiction of the Court of Wards, and the information derivable from a partial and unfinished survey of the pergunnah, preparatory to a detailed settlement, which was subsequently abandoned, I am enabled to assure you that the above statement is tolerably

Birth-place, Pergunnah & District to be mentioned.	Period of Employment in present Situation.	REMARKS.
- - Mouza Beethoo, Pergunnah Sonouth, Z^h Behaur - -	8 days -	- - Ally Jumma was formerly employed in the Rajeshahy district as an ameen, and subsequently as naib sheristadaur, in the collectors' and registers' cutcherries, for 4 years. He was afterwards a surberakaur in the Mymynsing district; subsequently he was employed as a moonshee in the college of Fort William for 6 months, and afterwards went to Cuttack, where he was employed as moonshee and foujdaree sheristadaur for 11 years and a half. He then went to the Backergunge district, as foujdarree sheristadar, and afterwards to the 24 pergunnahs, as dewanee sheristadar. In 1822, he was appointed naib sheristadaur, in the Allahabad collectorship; towards the end of 1824, he was appointed tehsildaur of Hutgaon; in 1825, he was transferred to the Soraon tehseeldaree; and in February 1828, to his present situation.
Allahabad Khas -	8 days -	- - This officer was formerly employed as a sezawul in this district, from 1226 to 1230; he was nominated by the collectors surberakar to a minor's estate, in the Futtehpore district. In 1231, he acted for 9 months as tehseeldaur of Futtehpore, and was afterwards appointed mohafiz dufter in the collectorship. He was subsequently nominated to be darogah of the Pilgrim tax; and was, in February 1828, posted to his present situation in pergunnah Keralee.
- - Futtehpore Khas, Z^h Futtehpore -	2 years -	- - This officer was, in 1216 Fusly, a mutsuddee in the Huzoor tehseel department. In 1231 Fusly he was appointed peishkaur in the tehsildaree of Hutgaon, in the Futtehpore district. In 1233, he was transferred as peishkar to the pergunnah of Authurbun, which is a distinct charge, though subordinate to the Hurrah tehseeldaur.

(signed) *J. Dunsmure*,
A. C.

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tolerably correct. From this inadequacy in the yearly jumma, we may fairly presume that many of the other pergunnahs within the division are susceptible of an increase to a less or an equal degree. A tuppah in Bhowapor has also undergone a measurement similar to that above alluded to, and with the same favourable result.

5. The pergunnah of Dhoorcapor is perhaps more equitably assessed than any other in this division; but although there may be in it, as well as in many other pergunnahs in the district, some estates which pay an enhanced jumma, in comparison with the general rate of the Government demand throughout the district, there are very few the jumma of which can be considered excessive.

6. Not only the assessed jumma of this division, but every other in the district, with the exception of Amorha and Arungabad Nuggur, is both unequally and inadequately appointed, as must be expected under the present assessment, which has remained, with a few exceptions, undisturbed for so long a period, and which was so hastily formed in 1224 Fs. The subsequent adjustment in 1229 Fs. was a mere renewal of the previous engagements. The inequality of the assessment, in one village paying a greater proportion of its produce to the ruling power than another, is owing to the greater advancement of one in cultivation since the last general settlement, and the false statement furnished by the native officers, who were themselves extensive landed proprietors, consequently deeply interested in underrating the produce of all estates held by themselves or numerous connexions. The same causes are also applicable to the inadequacy of the assessment. In a district like this, still daily advancing in cultivation, with a vast proportion of uncultivated land in the majority of its pergunnahs, a settlement which has not been altered for so many years is naturally much below the moderate share of the produce of the land claimed by Government as public revenue.

7. The realization of the entire revenue of this division is not attended with much trouble to the Government officers, or with any general embarrassment or distress to the zemindars, by which I mean, attachment of property, personal imprisonment, &c. are seldom or ever resorted to. Very few landholders in Goruckpore ever think of paying their kists until required by the issue of a dustuck, which from time to time it is necessary to repeat with additional peons; a practice heretofore adopted instead of harsher measures. This is owing to the characteristic unwillingness of the people to voluntary payments, and not from inability; nor is this reluctance confined to this district; it appears to be very general, and to prevail to an equal extent in the provinces enjoying the advantages of a permanent settlement.

Appendix, No. 3.

Commissioners of Revenue and Circuit.

8. The assessment of the Amorha division is adequate; little or no increase can be expected in the amount of the jumma, in which there has been very little variation * since the cession. The trifling increase in the jumma of those estates, which have been revised under Regulation VII. of 1822, confirms the opinion of the adequacy of the assessment, which is further supported by its realization being attended with more difficulties than actually encountered in other divisions. They are not, however, of such a nature, or the balance at the close of the year of such a magnitude, as to make me suppose it excessive, or to cause either the alienation of lands, or the attachment of crops. To the injury occasionally caused by the overflowing of the Gogra river is to be ascribed a portion of the balances due from this pergunnah.

*1212 Fy	- -	R. 1,08,033.
1215	- -	1,06,905.
1219	- -	1,09,376.
1224	- -	1,07,358.
1229	- -	1,07,729.

9. The next in succession in the statement is Selempore Mujhowlee, which is very inadequately assessed, considering the known high rate of rent in the pergunnah, and having always been in an advanced state of cultivation. The jumma is not less than thirty thousand rupees deficient of the sum that might be fairly demanded on a re-adjustment of the settlement. It is situated on the borders of the Chupra district. In this and the Sidhooa Jubna division, the people are much better acquainted with our laws and regulations than the inhabitants in any other part of the district.

10. The division of Ruttunpoor Bandee is, of all others, the most inadequately assessed. Judging from the result of my predecessor's detailed revision of the settlement in eight tuppas of pergunnah Bansee, I may safely state, that the assessment of this division might be increased to two lac of rupees. The former jumma of each tuppa has been more than doubled, after the most ample deductions. The Benaikpoor pergunnah is still very backward in cultivation; but Russoolpoor Ghose is similar to Bansee, with respect to the inadequacy of the yearly jumma. There is still much valuable land to be brought into cultivation before this division can be compared to the one last noticed in agricultural prosperity. The realization of the revenue is not attended with any difficulty, except from the extensive talooqdars, who are not in this, or throughout the district, so punctual in the payments of their instalments as the maliks of one or more villages.

11. The division of Ledhooa Jubna is also susceptible of a considerable increase in the amount of the present assessment. The soil is superior to any in the district, and the rate of rent per begah on a par with that of Selempore Mujhowlee; indeed the small pergunnah of Shajahanpoor is in every respect similar to the last named. The collection of the revenue is attended with no further difficulty than a careful vigilance on the part of the tuhseeldar in issuing dustuks for the kists as they become due.

12. In the Nuggur Bustee division, cultivation has increased since the last settlement, consequently capable of a large increase in the amount of the present jumma, without any undue pressure on the agricultural community. The detailed revision of the settlement that took place in one of the tuppas of pergunnah Bustee, immediately after the promulgation of Regulation VII. of 1822, exhibits an increase on the demand not very much inferior to that of the Bansee pergunnah.

13. Arungabad Nuggur joins Amorha, and is in every respect similar. These appear the only two extensive pergunnahs; certainly the only two divisions that can be considered as adequately assessed in the entire district, and the only two pergunnahs tolerably well advanced in cultivation at the time of the cession, or of which the resources seem to have been known to the former Government.

14. The realization of the revenue of the district is not attended with much trouble to the Revenue officers, nor with such embarrassment and distress to the zemindars, so as to cause the alienation of their lands, or compel them to pledge their crops. The great rise in the price of grain that has taken place since the last settlement has so increased the value of landed property as to obviate the necessity of their resorting to such a distressing expediency. The only difficulties are those attending a regular issue of dustuks for each succeeding kist; a single notice of the kind is generally sufficient to procure payment from the small proprietors; but the talooqdars of any considerable number of mouzas generally require the penalty of tulabana to be increased, in proportion to the amount of their respective jumma, by placing additional peons over them, before they make good their instalments. This practice has saved them from the harsher methods, authorized by the Regulations, in cases of defalcation. The necessity of the procedure does not argue against the lightness of the assessment; it is solely to be attributed to the habit of procrastination in the liquidation of the public demand, with which every zemindar, however wealthy and prosperous, is more or less beset.

15. In addition to what I have stated of the inadequacy of the present assessment, I must not omit to remark, that every intelligent native unconnected with my office, and many of them extensive landholders, with whom I have conversed upon the subject, invariably acknowledge the extreme lightness of the jumma, and express their wonder that measures are not taken for increasing it by a summary assessment, instead of continuing the present leases until their detailed revisal, being a yearly loss to the Government of from two to three lacs of rupees.

16. This is the opinion of those whose interest it is that no enhancement should take place, and is therefore deserving of some consideration, and at the same time serves to show how little the scope and object of the detailed settlements are understood in the district; it

is viewed with the greatest apprehension by all classes, which in a great measure accounts for the circumstance of a zemindar acknowledging that the pergunnah or even district in which his lands are situated is capable of yielding an increased jumma. The fact is, that the settlements having been commenced in the two frontier pergunnahs of the district, and no pains having been taken to explain the nature and purport of the enactment and the wishes of Government, the people are still as much alarmed at the collection of such minute particulars, and as ignorant of the purposes in view, as they were when Regulation VII. of 1822 was first promulgated in the district.

17. From the annexed* statement of transfers by private purchase and mortgages that have taken place within the last five years, you will perceive that no particular causes can be assigned, being so few, and not more than is naturally to be expected to result from mere speculation, and motives only known to the parties themselves.

*Transfer by private Sale - 119
Ditto by Decrees of Court 29
Ditto by Mortgages - - 16
164
Comprehending 231 villages.

18. The embarrassments caused by the expense of prosecutions in the civil court, and that attending the decision of boundary disputes by arbitration, which are exceedingly numerous in this district, are evidently influential in the transfers by sale that occasionally take place. There is also a good deal of expense attending the proceedings of the criminal court, owing to the smallness of the villages and the distance they are situated from the thanas and the sudder station; although these do not, as appears from the number of transfers, cause any great alienation of property: the difficulty at times experienced by some zemindars in making good their kists may be traced to such sources.

19. The kistbundee is the same throughout the district, there being eight equal kists from Kooar to Bysakh, at the rate of two annas in the rupee.

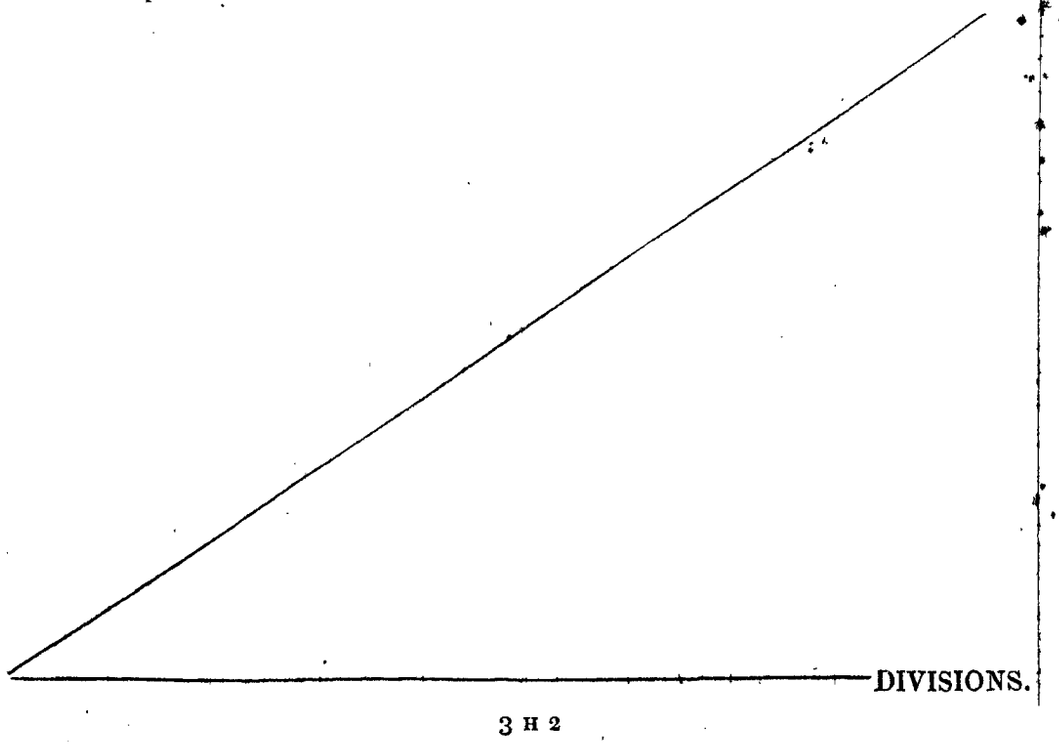
20. The Bhadie rice harvest, called so from being reaped in the month of Bhadon, immediately precedes the first instalment, and enables the zemindars to liquidate both Kooar and Katick kists. The mash and fine rice, designated agunnee or jurhun, is reaped in Agun, and answerable for the kists of that month, together with Poose, Magh and Phagoon, aided by the sugar harvest in the latter month. For Chyte and Bysakh, the Rubbee crops are sufficiently early to anticipate the Government demand. If the amount of the early and latter kists were increased, and those in the middle of the year proportionally reduced, the Government demand would be regulated more in conformity with the seasons, at which the produce is disposed of in the market, than is the case at present.

21. With reference to the 2d paragraph of the copy of your letter, addressed to the collector of the central division of Delhi, I have to state for your information, that it is not necessary to depute ameens or suzawuls in this district to assist the sudder malgoozars in making their collections; and that there is only one village in pergunnah Selempoor Mujhowlee which has been held Kham on account of deficiency of assets. In 1230 Fs. there were 119 villages under Kham management, from the resignations of zemindars and mustajeers, but only 13 remain for which engagements have not been taken, and of these three or four are merely nominal.

I have, &c.

Goruckpore Collectorship,
2d April 1828.

(signed) *Jas Armstrong*,
Collector.



DIVISIONS.	NUMBER OF VILLAGES. KHALSA.												
	Villages.	Biswas.	Chucks.	Talaub.	Julkur.	Arujee.	Kashts.	Jotrs.	Zemeen.	Ketas.	Muhals.	Mujras.	Beegahs.
HUZOOR TUHSIL.													
Pergunnah Havelee Goruckpore	560	–	57	3	–	–	–	–	–	–	–	–	–
Hussunpore Mughur	928 ½	–	18	1	5	1	–	–	–	–	–	–	–
Dhooreapar	828	–	75	–	–	11	82	–	–	–	–	–	–
Gujpore	484	–	7	4	–	–	–	–	1	–	–	–	500
Anowla	294	–	17	–	–	–	–	1	–	–	–	–	–
Tilpore	190	–	–	1	–	–	–	–	–	–	–	–	–
Bukhera	237 ½	–	–	–	–	–	–	2	–	–	–	–	–
Bhowapore	132	–	2	–	–	–	–	–	–	–	–	–	–
Sylhut	188	–	44	1	–	–	–	–	–	–	–	–	–
TOTAL	3,842	–	220	10	5	12	82	3	1	–	–	–	500
TUHSILDAREE AMORAH.													
Pergunnah Amorah	825 ¼	–	15	–	–	1	–	3	–	16	–	–	335
TUHSILDAREE SELEMPORE MUJHOWLEE.													
Pergunnah Selempore Mujhowlee	1,473	–	20	–	–	–	–	–	44	–	23	–	–
Cheloopora	153	10	18	–	–	–	–	–	5	–	1	–	–
TOTAL	1,626	10	38	–	–	–	–	–	49	–	24	–	–
TUHSILDAREE RUTTUNPORE BANSEE.													
Pergunnah Ruttunpore Bansee	1,302	–	–	18	–	–	–	6	–	–	–	–	–
Russoolpore Ghouse	617	17 ½	31	–	–	–	–	9	–	–	–	–	–
Benaikpore	90	–	–	–	–	–	–	–	–	–	–	–	–
TOTAL	2,009	17 ½	31	18	–	–	–	15	–	–	–	–	–
TUHSILDAREE LEDHAWA JUBNA.													
Pergunnah Ledhawa Jubna	800 ½	2	7	–	–	–	–	–	–	–	–	3	–
Shajanpore	205 ½	7 ½	5	–	–	–	–	–	1	–	–	–	–
TOTAL	1,051	9 ½	12	–	–	–	–	–	1	–	–	3	–
TUHSILDAREE MUNSOOR NUGUR BUSTEE.													
Pergunnah Munsoor Nugur Bustee	629	–	24	–	–	–	–	1	–	–	–	–	–
Mholee	903	–	9	–	–	–	–	51	–	–	–	–	–
TOTAL	1,532	–	33	–	–	–	–	52	–	–	–	–	–
TUHSILDAREE ARUNGABAD NUGGUR.													
Pergunnah Arungabad Nuggur	469	–	45	–	–	–	–	1	2	–	–	–	–
GRAND TOTAL	11,356	3	394	28	5	13	82	74	53	16	24	3	835

NUMBER OF VILLAGES.										REPUTED RUCBA.		Supposed Number of Zemindars.	Number of Persons under Engagements or managing as Mocuddums.	PRESENT ASSESSMENT.	BALANCE outstanding on Account of the past Five Years, from 1230 to 1234 Fusly.	Expense of fixed Mofussil Establishment.	Number of Dustuks issued in the three past Years.
LAKHERAJ.										KHALSA.	LAKHERAJ.						
Villages.	Biswas.	Chucks.	Kashts.	Asamees.	Suries.	Ketas.	Zemeen.	Jotes.	Chupras.	Begahs. Bs. Drs.	Begahs. Bs. Drs.			Rs. As. Gds.	Rs. As. Gds.		
237	–	102	–	–	–	–	–	–	–	1,67,729 3 –	1,15,200 – –	473	23	61,162 – –	6,635 12 15		919
158	–	3	–	1	–	–	–	–	–	1,39,401 8 19	18,310 10 –	1,524	27	46,324 2 10	1,565 7 5		2,552
77	–	3	11	–	–	–	–	–	–	1,26,362 3 –	9,585 – –	975	23	38,338 15 5	2,355 10 5		1,453
163	–	1	–	–	–	–	–	–	–	1,05,367 – –	38,189 10 –	30	2	27,867 – –	- - -		82
79	–	3	–	–	1	–	–	–	–	48,774 12 –	9,186 – –	127	10	12,421 3 –	1,941 9 15	6,978	503
113	–	–	–	–	–	–	–	–	–	43,391 18 10	16,095 10 –	117	19	9,956 – –	1,967 5 10		587
84	–	–	–	–	–	–	–	–	–	28,599 9 –	14,138 20 –	510	8	9,429 1 –	2,565 2 5		552
29	–	2	–	–	–	–	–	–	–	20,716 3 –	6,007 – –	450	20	8,848 – –	213 10 5		653
95	–	23	–	–	–	–	–	–	–	38,621 16 –	20,165 – –	167	3	8,061 – –	480 – –		441
1,135	–	137	11	1	1	–	–	–	–	7,18,963 13 9	2,46,877 10 –	4,373	135	2,22,407 5 15	17,824 10 10	6,978	7,742
58 ½	–	–	–	–	–	–	–	–	–	2,28,524 12 –	15,230 – –	1,622	412	1,08,421 – –	10,014 3 1.1	4,068	6,581
72	–	5	–	–	–	16	–	–	–	3,30,626 12 –	9,161 – –	4,135	19	88,543 – –	1,749 7 12.2	3,948	8,900
45	–	2	–	–	–	–	3	–	–	30,621 12 –	8,892 – –	405	1	14,571 – –	- - -		497
117	–	7	–	–	–	16	3	–	–	3,61,248 4 –	18,053 – –	4,540	20	1,03,114 – –	1,749 7 12.2	3,948	9,397
355	–	–	–	–	–	–	–	2	–	4,79,162 19 –	1,58,718 – –	957	691	79,764 – –	3,063 9 5		2,682
95	–	5	–	–	–	–	–	3	–	2,24,594 13 –	89,023 2 –	979	48	59,098 8 –	1,375 2 5	5,076	2,398
27	5	–	–	–	–	–	–	–	–	17,810 – –	7,360 – –	85	5	1,678 – –	996 6 –		205
477	5	5	–	–	–	–	–	5	–	7,20,767 8 –	2,05,101 2 –	2,018	744	1,40,540 8 –	5,435 1 10	5,076	5,285
47	8	1	–	–	–	–	–	–	54	3,61,970 12 –	20,537 12 –	372	1	83,970 1 3	2,320 9 10	3,792	2,161
24	–	–	–	–	–	–	–	–	–	81,050 2 10¼	11,446 3 10	116	2	12,312 – –	- - -		551
71	8	1	–	–	–	–	–	–	54	4,43,020 14 10¼	31,983 15 10	488	3	96,283 1 3	2,320 9 10	3,792	2,712
152	–	8	–	–	–	–	–	–	–	1,41,412 – –	37,526 – –	1,565	46	33,856 7 –	894 11 15	3,948	1,109
140	–	8	–	–	–	–	–	1	–	2,01,356 – –	27,583 10 –	2,550	30	55,449 6 –	3,984 8 10		1,527
292	–	16	–	–	–	–	–	1	–	3,42,768 – –	65,109 10 –	4,115	76	89,305 13 –	4,969 4 5	3,948	2,636
63	–	7	–	–	–	–	–	–	–	92,394 12 –	8,584 – –	1,036	7	50,532 – –	668 14 10	2,760	3,094
2,213	13	173	11	1	1	16	3	6	54	29,07,687 3 19¼	5,90,938 17 10	18,192	1,397	8,10,603 11 17	42,982 2 10¾	30,570	37,397

Continued on page 426.

(*Continued from preceding Page, fol.* 425.)

DIVISIONS. (*repeated.*)	Number of Persons employed in serving the same.		Amount of Dustuckana chargeable during the same Period.	Number of Cases on which Shahenas have been placed over the Crops during the same Period.	Number of Shahenas employed during the same.	Amount chargeable for Shahenas.
	Peons.	Sowars.				
Huzoor Tuhsil.						
Pergunnah Havelee Goruckpore	136	2	867 14 –	11	13	29 – –
Hussunpore Moghur	–	–	2,036 10 –	10	4	3 8 –
Dhooreapar	–	–	766 13 10	–	–	–
Gujpore	–	–	111 12 –	–	–	–
Anowla	–	–	521 – –	2	4	1 4 –
Tilpore	–	–	294 8 –	–	–	–
Bukhera	–	–	343 – –	–	–	–
Bhowapore	–	–	530 5 –	–	–	–
Sylhut	–	–	311 6 –	1	3	11 6 –
Total	136	2	5,783 4 10	24	24	45 – –
Tuhsildaree Amorah.						
Pergunnah Amorah	78	1	1,189 3 –	216	137	58 14 –
Tuhsildaree Selempore Mujhowlee.						
Pergunnah Selempore Mujhowlee	73	1	3,362 6 –	3	15	21 12 –
Cheloopora	–	–	379 – –	–	–	–
Total	73	1	3,741 6 –	3	15	21 12 –
Tuhsildaree Ruttunpore Bansee.						
Pergunnah Ruttunpore Bansee	97	1	1,582 3 –	46	15	12 15 –
Russoolpore Ghouse	–	–	1,492 3 –	87	24	26 2 –
Benaikpore	–	–	81 12 –	18	2	8 – –
Total	97	1	3,156 2 –	151	41	47 1 –
Tuhsildaree Ledhawa Jubna.						
Pergunnah Ledhawa Jubna	63	–	968 6 –	23	88	195 12 –
Shajanpore	–	–	235 14 –	6	10	32 – –
Total	63	–	1,204 4 –	29	98	227 12 –
Tuhsildaree Munsoor Nugur Bustee.						
Pergunnah Munsoor Nugur Bustee	63	1	405 15 –	65	45	39 3 –
Mholee	–	–	714 3 15	88	58	32 10 –
Total	63	1	1,120 2 15	153	103	71 13 –
Tuhsildaree Arungabad Nuggur.						
Pergunnah Arungabad Nuggur	43	–	1,235 – –	22	24	20 12 –
GRAND TOTAL	553	6	17,429 6 5	598	442	493 – –

Number of Persons employed in the Gaol during the Time, for Arrears of Land Revenue.	PERIOD OF IMPRISONMENT.						
	Longest.		Shortest.		Average.		
	Months.	*Days.*	*Months.*	*Days.*	*Months.*	*Days.*	
1	2	—	-	-	2	—	
2	2	—	—	5	1	2½	
- - -	-	-	-	-	-	-	
- - -	-	-	-	-	-	-	
- - -	-	-	-	-	-	-	
1	—	15	-	-	—	15	Soil inferior, and people less opulent than their neighbours.
1	2	—	-	-	2	—	
- - -	-	-	-	-	-	-	
- - -	-	-	-	-	-	-	
5	6	15	—	5	5	17½	
- - -	-	-	-	-	-	-	
- - -	-	-	-	-	-	-	One Mouza has been held under Kham Tuhsil.
- - -	-	-	-	-	-	-	
- - -	-	-	-	-	-	-	
1	1	15	-	-	1	15	
—	—		—		—		
—	—		—		—		
1	1	15	-	-	1	15	
—	—		—		—		
—	—		—		—		
—	—		—		—		
—	—		—		—		
—	—		—		—		
—	—		—		—		
—	—		—		—		
—	—		—		—		
6	8	—	—	5	7	2½	

(signed) *Ja^s Armstrong*, Collector.

Appendix, No. 3.

Commissioners of Revenue and Circuit.

(H.)

LETTER from *James Armstrong*, Esq. Collector of *Goruckpore*, to *Holt Mackenzie*, Esq. Secretary to Government.

Sir, 3d April 1828.

In reply to your letter under date 4th February last, I have the honour to submit herewith the accompanying Statement regarding the tuhsildars under my authority, according to the prescribed form.

2. Mirza Hydur Allee is fully qualified for the efficient and faithful discharge of his responsible duties, by his respectability as an individual, knowledge of the regulations and the policy of the Government, acquired by previous services in the Judicial and Revenue departments. The great extent of his jurisdiction renders a minute acquaintance with the concerns of the agricultural community under him almost impossible; but his general knowledge, and above all, his impartial manner of ascertaining and recording information, gives me every reason for feeling confident that he would be extremely useful in ascertaining the produce of lands, expenses of cultivation, and the assessment which should be levied. Indeed, the result of his inquiries preparatory to the revision of the settlement of two estates, which were undertaken in the cold season by the orders of the Board, is most satisfactory; it was an experiment on a previous inquiry of the same kind, the accuracy of which I had reason to doubt; and although his statement of the ruckba and produce nearly doubled the former one, the correctness of it was such, that the proprietors had not a feasible objection to offer. He gives his opinion of, and states his objection to, any subject I have ever consulted him upon, with less hesitation than the generality of native officers. However unreasonable objections may be, it is a difficult task to remove them to the satisfaction of those with whom they originate; he is an intelligent officer, and capable of fully explaining the reasonableness of the measures which may be proposed.

3. Manick Chund, tuhseeldar of Amorah, has only been very lately appointed, but was selected by me from the qualifications that he evinced during the time he served as surburakar to the Sutassee estate; he was employed as acting tuhsildar in another division for a short time under my predecessor, who, from being satisfied with his conduct during his temporary employment, intrusted him with the management of the estate in question. It is very extensive, and gave him a good opportunity of acquiring an intimate knowledge of the relative situation of the tenant and his landlord, and a minute acquaintance with the nature of agricultural business as conducted in detail. With this information, and his general character, I have sanguine expectations of his being very useful to the European officer who may be selected to renew the detailed settlement of that pergunnah, which has been interrupted by Mr. Conolly's absence; he appears to me to have the ability and inclination to ascertain the condition and circumstances of the mehals, to which his inquiries may be directed.

4. Mahomed Hussein Khan, tuhseeldar of Selempore, Mujhowlee and Cheloopar pergunnahs, has been long employed in this district, and possessed the good opinion of my predecessor, who promoted him to the situation of peshkar, from which he was removed at his own request on account of ill health. He is a very respectable man; and the satisfactory manner in which he conducted an inquiry into, and reported on, some towfeer lands, which had been for many years usurped by neighbouring zemindars, with the connivance of the former tuhseeldar and canoongoes of that division, gives me an opportunity of recording a favourable opinion of his acquirements and qualifications for the discharge of his duties; and that when the settlements of that pergunnah are brought under a detailed revision, I expect he will be very useful in furnishing the required information as to the produce, expenses of cultivation, and the assessment which should be levied.

5. Merza Kullub Hussein Khan was formerly surburakar to the Sutassee estate, and appointed to his present situation by my predecessor, who entertained a high opinion of his merits, as would appear from his nomination causing some inconvenience to the gentleman then in charge of the estate, above alluded to. He is punctual in the realization of the revenue; but I am unable to state how far he is qualified for the discharge of the important duties essential to the settlement of estates, under the provisions and in the spirit of Regulation VII. of 1822, for since his appointment, the settlements have been discontinued in pergunnah Bansee. However, as Mr. Carter was employed in that pergunnah, it is but fair to presume that he is sufficiently acquainted with the concerns of the agricultural community to be able to furnish useful information, and to remove in some degree the dislike the people entertain against the settlements in question.

6. Dost Mahomud has been employed for sixteen years in this district; he is certainly well acquainted with agricultural affairs, as he is himself a landed proprietor in this district, though not to any extent within his own jurisdiction; his collections are regular enough, and from his experience must be qualified to afford useful information on the points to which your inquiries are directed in the letter under acknowledgment. It would, however, be necessary to ascertain that he had no interest in the lands, of which he might be required to furnish particulars relative to their produce, and the expenses attending their cultivation.

7. Byjoonath

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

7. Byjoonath Sing has also been long employed in this district; and such was the opinion Mr. Carter had of his qualifications for conducting the requisite inquiries into the resources of the lands, expenses of cultivation, and the relative rights of the owners and the cultivators, that he selected him for the Bansee division when first engaged in the settlement of that pergunnah. He continued to be satisfied with the selection he made until the year previous to his departure for Europe, when he removed him to the Bustee division, recording his dissatisfaction and the disappointment of the high hopes he entertained of him, without assigning any reason. He is certainly a very intelligent officer, and has been of great use in the settlements, though his conduct might not have been altogether free from the reproach of having evinced an itching palm, for how few are free from that besetting sin; still I am inclined to think, that too much credit was given to the information which gave rise to the above-named gentleman's suspicion; and since he did not inquire into its authenticity, the tuhseeldar is entitled to the benefit of his previously acquired character. I am more willing to accede to this, on account of the endeavour that was made to prejudice me against him on my arrival here, and which, together with the proceedings relative to his removal from Bansee, had, at the time, the effect of inducing me to withhold his recommendation for the usual reward at the close of the year

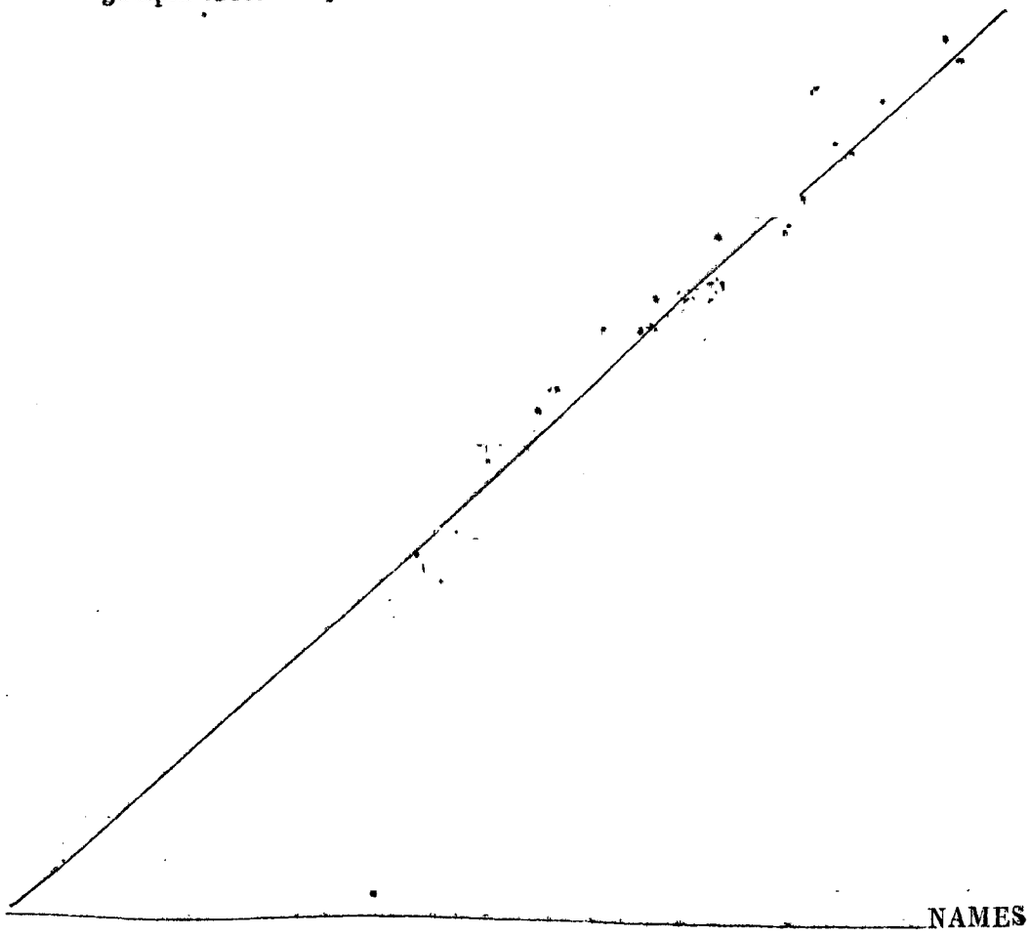
8. Of Gobind Narain, I am unable to state any thing relative to his ability to discharge the duties specified in your letter; he has not been engaged in ascertaining and recording information of that nature with a view to a detailed settlement, nor have I had any personal communication with him, so as to enable me to judge of his knowledge of revenue and agricultural matters, or whether he was likely to discover just objections to what might be proposed by myself or removed by explanation, such as might be unreasonably entertained by the people. He is attentive to the realization of the revenue, and the instructions issued for his guidance.

9. In conclusion, I beg to remark, that however well qualified tuhseeldars may be, either from a natural intelligence or long experience for the discharge of those duties which form the subject of your letter, their inquiries are abstracted by the attention to their other important duties, and with many, that love of ease which urges them to trust to their mohurreers, and place too much reliance on the information derived from them and the canoongoes, renders their statements of the produce, and the expenses attending the cultivation, open to objection; indeed, little or no reliance can be placed on the information, without it is acquired under a full conviction that the whole of it will be speedily and vigilantly revised by their official superior on the spot.

I have, &c.

Goruckpore Collectorship, 3d April 1828.

(signed) *James Armstrong*, Collector.



NAMES of PERGUNNAHS.	ASSESSMENT,	NAMES of TUHSILDARS.	SALARY.	Period of Service as a Revenue Officer of the British Government.	AGE.	RELIGION.	TRIBE.	Birth-place, Pergunnah and District to be mentioned.	Period of Employment in present Situation.	REMARKS.
				Years. Months. Days.					*Years. Months. Days.*	
Havelle Goruckpore	61,162 – –	Mirza Hyder Allee Peshkar	150 – –	2 5 13	40	Mahommedian	Mozub	Belgram in Chuckleh, Khyrabad in the kingdom of Oude	– 5 27	
Hussunpore Mughur	46,324 2 10									
Dhooreapore	38,338 – –									
Gujpoor	27,867 – –									
Anowlah	12,421 3 –									
Tilpoor	9,956 – –									
Bukhera	9,429 1 –									
Bhowapar	8,848 – –									
Sylhut	8,061 – –									
	2,22,406 6 10									
Amorha	1,08,421 – –	Manick Chund	100 – –	1 2 28	35	Hindoo	Koit	Baloopoor, Pergunnah Khureed, Zillah Ghazeepore	– 2 6	
Selempore Mujhowlee	88,543 – –	Mahomed Hussan Khan	100 – –	9 8 20	35	Mahommedian	Sheikh	City of Benares	5 27	
Chèeloopar	14,571 – –									
	1,03,114 – –									
Buttunpoor Bansee	79,764 – –	Mirza Kulub Husseen Khan	100 – –	10 3 –	33	ditto	Mogul	ditto	1 3 –	
Bussoolpoor Ghouse	59,098 8 –									
Benaikpore	1,678 – –									
	1,40,540 8 –									
Sedhowa Jubna	88,970 1 2	Sheikh Dost Mahomed	100 – –	16 5 4	45	ditto	Sheikh	In the town of Calcutta	2 8 7	
Shajahanpoor	12,313 – –									
	96,283 1 2									
Munsoor Nugur Bustee	33,856 7 –	Roy Bynauth Sing	100 – –	13 4 –	48½	Hindoo	Koit	In the town of Barelly	1 3 25	
Maholee	55,449 6 –									
	89,305 13 –									
Arungabad Nugur	50,432 – –	Gobind Narain	75 – –	7 – –	49	ditto	Khetree	In the town of Oude	12 – –	
	8,10,603 11 17									

No. 9.—MEMORANDUM by Mr. *Holt Mackenzie.*

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

As explanatory of some particulars relative to public sales, which can scarcely be understood without a minute reference to the circumstances of individual cases, I beg leave to submit the annexed extract from a note on the subject, which I began to write long ago, but which I have never been able to complete to my satisfaction. The more indeed I have thought on the subject, the more difficult does it appear to reconcile what has been done to any principle; and the stronger becomes the persuasion, that though the knot may with facility be cut, and the just rights of all classes provided for, it cannot be disentangled through any process, which shall be grounded on the denial of the ignorance of those by whom and by whose orders the injustice was committed.

All the law of the case is summed up in the printed Resolution of 1820; but though the writer of the Resolution in question, I must confess that all that is therein stated fails to meet the real circumstances. The facts detailed in regard to the settlement and sale of the village to which I have referred, will very nearly apply to a multitude of villages originally held by corporations of zemindars, which have been cruelly alienated in other districts; and it is a striking fact, that just as we descend from the more remote of the conquered provinces towards the ceded districts nearest the presidency, the more extensively do we find the institutions of the people to have been invaded, and rights violated by the process in question, until in Bundlecund, Allahabad and Goruckpore, we are met by the full flow of that tide of fraud and folly, which has been (imperfectly) detailed in the preamble of Regulation I. of 1821.

EXTRACT.

"Government may naturally be desirous of passing an early decision on the subject of estates, which have been sold in liquidation or on pretence of arrears of revenue, because the adjustment of the claims which will arise, when the villages affected by such sales come to be settled under Regulation VII. of 1822, must depend mainly on the views that may be entertained in regard to their legal and equitable operation. And there is one decision, which, if I could feel assured of the accuracy of the information I possess, and of the soundness of the conclusion to which my judgment leads me, I should be disposed instantly to recommend, as required equally by the obligations of truth and justice, and which would summarily break through the difficulties that beset it.

"It appears to me, that as the executive officers who suggested, the Boards who approved, and the Government which sanctioned the measure, were alike ignorant of the thing they proposed to dispose of, and of the rights and feelings (not less sacred than rights) which were affected by their determination, the plain and honest course is to confess this ignorance (culpable as we must acknowledge it to be), and at once to pronounce invalid all the sales in question, and to nullify all their consequences: due compensation being of course allowed to those who may suffer by the Resolution. Much less ingenuity than Government has it in its power to command from many of its Revenue officers will suffice to construct a plausible argument in justification of what has happened, and to give an appearance of consistency to the rules which have been passed, and to the acts which have been done in the enforcement of them; but we shall not, I humbly submit, thus meet the claims of justice; we shall not thus speak the dictates of truth; the most ignorant will not thus be deceived; the most submissive will not be satisfied. The wrongs that have been done are not to be disguised from the people by any trick of special pleading. Their reverence for Government must be destroyed by the use of any artifice. It cannot be raised by any claim to an exemption from error. It will, on the other hand, be upheld by the candid avowal and prompt redress of injuries.

"I cannot, however, hope that the Government will on my suggestion adopt so broad and important a determination. I can scarcely expect that the proposition will be received with much favour in any other quarter. And if it be resolved to act on any less comprehensive principle, we must, I submit, be prepared to take each district, perhaps the several divisions of each district, into separate consideration; for each will present some variety, either in the character of the original engagement under which the error accrued, or in the circumstances of the sale.

"I propose consequently now to commence with the district of Meerut, and to offer the details only of a single village, of which the settlement under Regulation VII. of 1822 enables me to give the history with a near approach at least to accuracy. The orders which his Lordship in Council may pass on the case will doubtless have an extended application.

"The papers of which I now enclose copies will show in a general manner the number and circumstances of the estates which have been sold in that district. However extensively the people have suffered from other causes, it has been subjected less, I believe, than almost any other to the scourge of public sale, and redress could therefore be given for the injuries resulting from that cause on the principle I have indicated above, at a comparative trifling charge upon the public purse, if indeed Government can ever stop to weigh the expense of doing justice. The case I have to detail, selected without any reference to the peculiar features, might alone be held to establish the fact that we have been governing in the dark, because all, from Government downwards, have been acting in the neglect of those details, without which there can be no real knowledge of a country, and in ignorance of which it must be a mere cast of the die whether the order of the magistrate be on the side of justice or oppression.

Appendix, No. 3.

"In 1211, the settlement of Salanee, pergunnah Chaprowlee, was made with three persons, Jath zemindars, called Chinat, Luda Sookh and Bukhta, at a jumma of Rs 3,713, including Nankar and Inam. In 1212 the jumma was raised to Rs 3,723,* and a person of the name of Ratna was joined in the engagement. Up to that time the collections of the place belonged to Dehlee, and it is said that the parties to the engagement were chosen in consideration of their fitness. For the three years following, the lease (theeka) of the villages was given to five persons,† including three of the four former engagers, with an assessment including Inam-i-Mocuddumee, rising from Rs 2,855‡ to 3,256.§ It is stated not to have been then customary to write any regular record of the proceeding held at the settlement of estates, and it does not consequently appear on what grounds the parties in question were admitted to engage.

"The instrument executed by them for the triennial settlement (called Durkust theeka‖) simply contains an engagement to pay the assessed jumma, without any specification of the character of the engagers. But the Inam being called Inam-i-Mocuddumee, it may be presumed that they then appeared in their proper character of mocuddums or representatives of the village community, as they would have continued to have done, had the village been managed on the Dehlee system. Unfortunately, however, our printed rules made no sufficiently distinct provision for such a scheme of management, and the engagers being zemindars, were recorded as such without any explanation of the nature or extent of their zemindaree interest.

"In 1216, when the next triennial settlement was made, it appeared that one of the parties to the former settlement (Silka) had fled across the Jumna on account of pecuniary embarrassment; and in his place Bukhta, called a subordinate parcener, (shureek shikume) was admitted with the four remaining engagers. The assessment was then fixed, exclusive of the Mocuddumee Inam, and varied from Rs 3,001 to 3,100."

The instrument, with exception to the exclusion of the above-mentioned item, was in the same terms as the preceding one. The roobakaree of settlement purports, that the five persons above mentioned had attended; that the preceding settlement book was examined; that in it the names of Chinat, Lada Sook, Rutnah, Silka and Mokum were recorded as zemindars; that the circumstance of Silka's flight was stated; that the four other engagers acknowledged Bukta as a parcener, and requested that he might be joined with them; that no other claimants to the zemindaree having appeared, it was to be inferred that the five were the zemindars of the village, and that they were admitted to engage as such. At the next quartennial settlement, the same assessment was continued with the same parties, excepting that Chinat having been dismissed, his son Ramdyal was admitted in his place.

The roobakaree, recovered on this occasion, shows, like the former, that nobody was thought of but the sudder malgoozars; and that the settlement accounts were taken as conclusive proof of zemindaree right, in so far at least as concerned the Revenue officers.

In 1221, a balance of Rs 542 accrued, and on the report of the tuhseeldar (Abdoosobhan Khan) stating, that it could not be realized without a sale of the estate, Mr. Colin Shakespear recommended, and the Board authorized it to be disposed of by public auction. It was accordingly sold on the 2d November 1814 for Rs 425, one moiety (ten biswas) being bought by Hossin Allee Khan, and the other half by Benee Ram Bugal; and the names of these two persons were recorded as zemindars in the room of those above mentioned.

In 1222, while still a year remained of the settlement, an abatement of Rs 400 was granted, and the settlement for the five ensuing years was concluded at a jumma of

1223.	1224.	1225.	1226.	and	1227.
2,700.	2,716.	2,720.	2,730.		2,750.

In 1227, Hosen Allee sold for 180 rupees 3 biswas and 15 biswansees, of his ten biswa share to Benee Ram, who was recorded as proprietor of $\frac{13}{20}$ and $\frac{15}{400}$ parts of the estate, and who came under engagements for the whole village, partly as zemindars, and partly as farmers, for the years 1228 to 1232, subject to an assessment rising in the last year to 2,800.

In 1230, Hosen Allee sold his remaining share (bs 6. 5.) to five persons, named Hurkoo, Bustee, Chatua, Suntook, Hinta and Buhal, who were accordingly recorded as proprietors of that portion of the village.

The inquiries now held on the spot show that the last-mentioned persons were part of the original Jath proprietors of the village; that the portion purchased by them, constituting the inheritance of two of several families, among which the village had in old times been divided, is shared by 28 others of the same caste and tribe, to whom or to whose ancestors it had belonged previously to the sale;¶ and that 28 persons would, but for the sale, have enjoyed a similar property, in the large portion which stands in the name of the bugal, but are now treated by that person as mere hereditary cultivators, though, being a non-resident, he makes his collections through their head men, five in number. It is further stated

* Mal - - 3,391
Inam - - 257
Nankar - 75
3,723

† Chinut.
Luddasook.
Ratna.
Zilkah.
Mokum.

‡ Mal - - 2,600
Inam - - 255
2,855

§ Mal - - 3,001
Inam - - 255
3,256

‖ The phrase which is used in all the engagements purports no more than a contract for a fixed sum, without reference to the character of the contractor.

¶ We have thus the inheritance of 56 families sold for less than 500 rupees.

stated that Hossen Allee was brother-in-law to the tushildar, who proposed the sale, and that the sale was effected by his intrigues.

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

Although Mr. Glyn was of opinion that the sale should be set aside, and the ousted zemindars restored, in consideration of the smallness of the balance contrasted with the value of the estate, and of the connexion between the tesheldar and one of the purchasers, he did not consider himself at liberty to question the right of the bugal, with whom accordingly he has proposed to make a settlement as proprietor for the 13 biswas 15 biswansees portion which stands recorded as his property; the old proprietor of this division he considered to have (a hereditary, I conclude, though not transferable) title of occupancy during good behaviour, subject however to the demand of a moiety of the produce for lands cultivated with grain, and to a money rent for the rest of their fields at the following rates:

Sugar-cane,	8	6	–
Cotton	4	4	7½
Muma and Churee	1	15	10
Carrots, &c.	2	4	–

For the remainder of the villages, he took engagements from five persons as lumberdars or managers, being the leading men of the five divisions into which that branch of the community had been divided.

To these lumberdars he proposes to grant an allowance of 20 per cent. on the Government jumma, payable by them, with a further abatement of five per cent. in the rental of the lands they cultivate, which last advantage is extended to all their parceners.

The bugal, for his part of the village, is recognized as being entitled to the whole of both allowances, and the cultivators seem to be likewise made responsible for village expenses.

These arrangements strike me as being open to several objections, and I suspect the jumma assessed (Rs 4,053), though assented to by the bugal and the malgoozars, is too high; but these are separate questions. The immediate point to be determined is whether the sale shall be set aside, and how; or maintained, and with what effect.

I have already shown that the settlement proceedings were founded on an entire mistake, which the slightest inquiry (if it had been the interest of the native officers to suggest inquiry) would have discovered. The report of the tehsildar regarding the balance, and the order passed by the collector on the subject, are instructive: the former states merely, that the five zemindars had failed to pay, though urged by him to do so, and that they were utterly insolvent; the latter, without a single question, and apparently without a moment's hesitation, orders the village to be included in a sale statement, to be forwarded to the Board. The sale was originally fixed for the 26th October, but was postponed to the 2d November, on account of the collector's want of leisure; and as it seems to have taken place without any fresh notice, it might perhaps on this ground be held to be invalid by the Adawlut. The umul dustuck granted to the purchasers, and addressed to the mocuddums, cultivators and ryots of the village, is less specific than the corresponding documents prepared by the more expert mootsuddies of the Lower Provinces would appear to be. It states generally, that the zemindaree of the village had been sold for an arrear due by the five zemindars above mentioned; that their names had consequently been struck out of the Government records, and those of the purchasers inserted;* and that the latter were consequently to be considered as full zemindars, and as such to receive the malgoozaree. The plea subsequently urged by the purchasers, that the estate had been over-assessed, and that the defaulters as well as themselves had suffered losses, is confirmed by the canoongo of the pergunnah, and seems to have been readily admitted by Mr. Shakespear; but no thought is given to the imputation of cruel injustice which such an admission casts upon the previous sale. And the repeated roobookurees of settlement all speak the same utter neglect of the numerous individuals whose interests were compromised.

* Zémindasan. Moostugul.

Mr. Glyn's inquiries do not *show*, certainly, how the revenue was collected previously to the sale, nor whether the arrear was in part due from the zemindars generally, or from the Government engagers only. It is to be inferred, however, that antecedently to the sale, the public demand and village expenses were distributed among the cultivators, in proportion to the land held by them; and it is probable, that there was a general failure to make good the amount demandable on that principle; at this time of day it would, I fear, be vain to attempt to ascertain the fact. We should probably succeed only in calling into existence a vast mass of falsehood and forgery, and that in exact proportion to the confidence with which the executive officer might assure us he had obtained real accounts;† I cannot therefore recommend any inquiry into the point. I shall proceed on the assumption least favourable to the village community, observing only, that as no means were taken to ascertain the fact at the time when it could have been ascertained, they are entitled to the benefit of an opposite conclusion.

I am

† In this case, the putwarry denied having any accounts later than 1228; those produced for later years are rejected by Mr. Glyn as fabrications. Even as such, they are rather curious, as exhibiting the profits of the engager Benu Ram Bugal, under the head of Sewace, the yearly average being Rs 174, while the village expenses pocketed by the mocuddums are stated at Rs 347.

Appendix, No. 3.

Commissioners of Revenue and Circuit.

I am sorry to say I can find nothing in the papers to support Mr. Glyn's general statement, that "the intending purchasers have invariably been given to understand that nothing more than the exclusive right of the defaulting proprietor was to be knocked down;" on the contrary, it seems to be assumed throughout that the entire zemindary of the village was to be conveyed to the purchaser; and this doctrine I believe to have universally guided the decisions of all officers, Judicial and Revenue, until called in question by Government at (unfortunately) a late period, and it appears to have been submitted to by the people. I also regret to observe, that the facts of the individual case appear to contradict the statement, that purchasers have exercised only the privileges which were exercised by the former malgoozars; for in this case we find the bugal collecting the full assessment of 50 per cent. on the gross produce, without reference to the limitation of the Government demand, which would have restricted the collections of the former malgoozars. It would apparently have been nearer the truth, if it had been stated that the purchase was understood by the people to convey a right to the farm of the revenue of the whole village, provided the purchaser could satisfy the collector; and that to the farmer belonged exclusively all the profit arising out of the difference between the specific sum which he contracted to pay to Government, and the rent or revenue which Government was entitled to demand on the crops of each year. In the individual case, this would amount to a right of enjoying all that might remain of rent, after satisfying the Government assessment; because it is, I apprehend, certain that the demand of half the grain produce would leave no surplus profit to the cultivator, and such a demand, though probably not enforced, would appear to be justified by the local usage touching engagements, as well as by the provisions of the Maslim Code. To recognize it in the purchaser would, therefore, be virtually to destroy the property of the village zemindars. Yet I see no principle on which, if the sale be at all maintained, any thing short of it can be recognized. To fix rates favourable to the cultivators, excepting under a compromise with the purchaser, would be to violate his property not less than to compel him to relinquish his purchase; and on the whole, I see no way of getting out of our difficulties, than by admitting that a gross act of injustice has been done, which must be remedied; and by setting aside the sale, as the only means of providing an effectual remedy, granting suitable compensation, if any shall be thought due to the purchaser, and restoring the village corporation to the rights and institutions which we have so blindly invaded, and which the most arbitrary of our predecessors would probably have respected.

(signed) *H. Mackenzie*,
Secretary to Government.

(I.)

LETTER from *R. C. Glyn*, Esq. Collector of *Meerut*, to *Holt Mackenzie*, Esq. Secretary to Government.

Camp, Delhi Territory,
29th December 1827.

Sir,

I HAVE the honour to acknowledge the receipt of your circular letter, dated the 8th instant, and to inform you that no Report has hitherto been furnished from this office on the subject of sales made for the recovery of arrears of revenue, in consequence of the requisition contained in the 242d paragraph of the resolution of Government, the 22d December 1820; but I now beg leave to furnish a Statement of the particulars alluded to therein; viz.

Firstly.—The extent to which sales have been made of the different descriptions of estates (in this district) by public auction.

There are thirty-seven, as detailed in the accompanying account.

Secondly.—The degree in which the purchasers have exercised powers inconsistent with the principles laid down, and how far they have been supported or controlled by the courts of judicature.

The exclusive right only of the defaulting proprietors have been sold, and the purchasers have not exercised powers, whether in the ejecting a Khoodkast ryot, or resident and hereditary cultivator; nor have they demanded from such an under-tenant, or from an inferior zemindar or other proprietor, a higher rate of rent than was receivable by the former malgoozar; and no decisions of the courts of judicature in such cases would appear to be upon record in this office.

Thirdly.—How far, in effecting sales of estates of the different descriptions specified, the acts of the Revenue officers may have been such as to lead the purchasers into the belief that they were entitled to the absolute property of the land composing the Mehal sold, or otherwise to exercise powers inconsistent with the above principles.

When an estate has been exposed to sale, the intending purchasers have invariably been given to understand, that nothing more than the exclusive right of the defaulting proprietor in the property proposed for sale was to be knocked down to the highest bidder in open competition.

Fourthly.—

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

Fourthly.—The prices usually paid, or expenses incurred by the auction purchasers of estates, falling within the scope of the above resolutions, and the value of the purchase, supposing the above principles to be maintained.

It has been ascertained that where an estate, depending entirely upon the clouds for irrigation, was purchased for Rs 300, and the purchaser had subsequently laid out 300 rupees more in sinking two pucca wells, and another 100 rupees in making further local improvements, such as getting up dwellings for new comers, Tugavee advances to the Asamees, &c. &c., the value of the estate has been calculated at 2,000 rupees, while the actual cost to him was no more than 700 rupees.

Fifthly.—How far, on giving effect to those principles, the purchasers would be entitled to compensation.

Where there are large annual profits derived by purchasers of estates at public sales, they will certainly be very unwilling to transfer the property to an original proprietor, let the proposed consideration be ever so high. Moreover, several estates so purchased have passed into the hands of other individuals by private intermediate sales and transfers, three or four times successively, since the first purchase by public auction, from various circumstances, *i. e.* for instance, the refractory spirit of the original maliks being a continual annoyance to the purchasers, or from the assessment not being adequate to the capabilities of the soil, or solely with the view of obtaining an advantageous sale, thereby enhancing the value of the property to such a degree, that many of the original proprietors have not the personal means of satisfying. If, however, an allowance of simple interest at 12 per cent. per annum, foregoing of course all profits which the parties in possession may have derived during occupancy, was made upon the capital from the date of purchase to the period of relinquishment of the property to the original zemindars, it would not be a matter of difficulty for them to liquidate the same. But this is only one side of the question; several of the purchasers, being the inveterate enemies of the original zemindar, could not be brought to accede to any terms, however advantageous to themselves.

Sixthly.—On what terms they would be willing to resign their purchases, and how far the original zemindars, in or out of possession, would be able and willing to make good the amount, or how a compromise could otherwise be most expediently adjusted.

Of their own free-will and accord they will never be willing to resign their purchases, on the plea of deriving large profits, and the increased and increasing value of the estates, to satisfy which would be far beyond the reach of the original zemindars, most of whom are willing, and can only refund the purchase-money.

I recommend a regulation authorizing the restoration of hereditary lands sold by public auction for arrears of revenue to original proprietors, on their paying auction purchase money, with interest at the rate of 12 per cent. per annum.

I have, &c.

Zillah Meerut Collector's Office, the 29th December 1827.

(signed) *R. C. Glyn*, Collector.

ABSTRACT

ABSTRACT STATEMENT of Settlement in Zillah Meerut, - - - - -

	B.	B.	B.
Rugba, as per last Settlement	2,496	19	–
Ditto - by present (A.) Measurement	2,580	15	–
Deductions - -	203	18	–
Viz.—	B.	B.	B.
Site of Village - -	24	14	–
Roads - - -	39	5	–
Tank and Ponds - -	56	1	–
Gardens - - - -	3	14	–
Village Servants, Kyrath, Barren, &c. -	73	13	–
Occupied by Wells -	6	11	–
Cultivated in 1234 Fs. - -		1,543	19 –
Viz.—	B.	B.	B.
Dankreh, 1st sort -	919	14	–
Scotch - 2d ditto -	624	5	–
Arable, not cultivated - - -		576	3 –
Total - -		2,120	2 –
(A.) Quantity of Land, the right to which is disputed by the Zemindars of Lohareh, included in the present Measurement of this Village - - - - -		256	15 –
Total - -		2,376	17 –

ABSTRACT RENTAL - -

	QUANTITY of LAND. B.	B.	B.	RENT, according to Pergunnah Rates. R^s	A.	P.
Cultivated Seer by the Zemindars in 1234 Fs. - -	499	7	–	1,526	9	9
Ditto - by ditto - Sugar-cane Land for 1235 Fs. - -	7	9	–	22	8	7¼
Ryotee cultivation in 1234 F. -	1,014	1	–	3,058	5	–
Ditto - Sugar-cane Land for 1235 Fs. - - - -	23	2	–	69	13	11¼
Fallow, exclusive of Pasture Lands	145	11	–	68	3	7½
Sawaee - - - -	—			—		
Putwarries' per Centage.* (*See* particulars subjoined.)	—			—		
Total - -	1,689	10	–	4,745	8	11

* The Putwarries' dues are not included in the Jummabundee. He, however, receives from the proceeds of the Sale of the produce of Banee Ram's puttee, half a pice in the rupee, on account, Wuzzun Khasbee (or weighing) for his office of putwaree.

The Ryotee Share of the Bhaslee Grain is a Moiety, - -

	R^s	A.	P.		R^s	A.	P.
Sugar-cane - - -	9	6	–	Cotton - - -	4	8	–
Carrots - - -	2	4	–	Merwa - - -	2	4	–

The Seer cultivation of the Zemindars as to share

Average Prices for Ten - - - -

Indian Corn, M^{ds} - - -
Shalee Rice - - - -
Musseena - - - -
Joar - - - - -
Wheat - - - - -
Gojee (Wheat and Barley mixed)
Barley - - - - -
Grain - - - - -

Number of Ploughs of four Bullocks each. - - - - 40
Viz.—
Of Zemindars - - 12
Of resident Ryots - - 28

Number of Houses - - - - 119

Population - - - - - 893
Viz.—
Men, 333 - - Women, 254
Children, viz.—
Male, 218 - - Female, 84

Number of Wells. { Pucka - - - 10 / Kucha - - - 32 } 42

Sugar mills - - - - - - 3

The Soil consists of two kinds; viz.—
1. Dankreh.
2. Scoteh. The former yielding Sugar-cane, Cotton, Churree, &c.; and the latter, Hurjins, or crops of every kind described in this Statement.

ABSTRACT of the - -

	B.	B.	B.
Land in cultivation, 1234 -	1,513	8	–
Cultivated for Sugar-cane in the ensuing year, 1235 Fs.			
Including Junchur and Fallow	176	2	–
Sawaee - - - - - - - -			
Putwarries' dues - - - - -			
Total - - -			

- - - PERGUNNAH CHAPROULEE, MOUZAH SILANEH, VILLAGE USLEE.

- - - - - - - 1234 Fs.

RENT, according to Village Rates.	TOTAL.	AVERAGE of both RENTS.
Rs A. P.	Rs A. P.	Rs A. P.
1,572 14 6	3,099 8 3	1,549 12 1½
22 8 7¼	45 1 2½	22 8 7½
2,998 - 3	6,056 5 3	3,028 2 7½
69 13 11¼	139 11 10¼	69 13 11¼
68 3 7½	136 7 3	68 3 7½
—	—	—
—	—	—
4,731 8 11	9,477 1 9¾	4,738 8 10¾

'ABSTRACT OF PUTWARRIES' ACCOUNT REJECTED.

	Mal.	Sawaee.	TOTAL.
	Rs A. P.	Rs A. P.	Rs A. P.
Fs.			
1229 - -	3,037 2 6	301 3 -	3,608 5 6
1230 - -	2,942 - -	260 6 -	3,202 6 -
1231 - -	2,827 - -	445 1 3	3,272 1 3
1232 - -	2,837 - -	204 1 3	3,041 1 3
1233 - -	2,958 - -	553 6 6	3,481 6 6

- - - and the Rates for Staple Articles are as follows; viz.

	Rs A. P.		Rs A. P.		
Charee - - -	2 4 -	Oil Seed - -	2 4 -	Jumma - - -	2,800
Tobacco - - -	7 8 -			Profit - - -	174
				V. expense - -	347
					3,321

and rates precisely the same as above.

- - - Years, per Rupee.

1	8	4
1	-	10
-	38	-
1	2	10
-	31	-
-	38	4
1	3	4
1	5	14

- - JUMMABUNDEE, 1234 Fs.

Rent, according to Pergunnah Rates.	Rent, according to Village Rates.
4,584 14 9	4,570 14 8
160 10 2	160 10 2
—	—
—	—
4,745 8 11	4,731 8 10

	Rs	A.	P.
Average of both the Jummabundee -	4,738	8	10¾
Deduct 25 per cent. upon the Jumma payable to Government - -	1,012	8	-
Remainder, being the Jumma assessable	3,726	-	10¾
* Proposed Jumma accepted by the village - - - - -	4,053	14	-

Annually for 12 years, under Clause 2. Sec. 7. of Regulation VII. of 1822.

Highest Jumma of the last five Settlements, viz.—

	Rs
1.—1212 Fs. - - -	3,199
2.—1215 „ - - -	3,001
3.—1219 „ - - -	3,100
4.—1224 „ - - -	2,750, and
5.—1232 „ - - -	2,800 *

* Rs 327 13 1¼ added on account of expected increase of produce on 145 begas, 11 biswas, lying fallow for two years.

Appendix, No. 3.

Commissioners of Revenue and Circuit.

STATEMENTS exhibiting the PUTTEES, Number and Names of 35 PROPRIETARY PARCENERS, and their respective Shares.

NAMES OF PROPRIETORS, recorded as Zemindars and Sudder Malgoozars, or Engagers per Revenue.	NAMES of unrecorded internal Co-sharers.	EXTENT of INDIVIDUAL RIGHT. B.	B.	T.	K.	
B. B.						
1st PUTTEE - - 13 15						
Banee Ram (Bugal) - -	- - -	13	15	–	–	
2d PUTTEE - - - 6 5						
Hurkoo and others, Jouts, Suntoakh, Lumberdar,	- - -	–	–	13	18	There are 37 Cultivators in this Village, of which 28 are hereditary, 8 are not hereditary; 1 Pah Kasht residing in another Village.
and his 11 co-sharers; viz.	Goolab - -	–	–	13	18	
	Malay - -	–	–	13	18	
	Gad Ram - -	–	2	1	13 ¼	
	Mahedeya -	–	2	1	13 ¼	
	Khooshee Ram	–	3	2	10	
	Soojan - -	–	3	2	10	
	Sahub Roy -	–	3	2	10	
	Kowroo -	–	1	–	16 ¾	
	Mehroo -	–	1	–	16 ¾	Sons of Mala.
	Maheya, and Sawae his son	1	5	–	–	
	Roy Sing -	–	1	–	16 ¾	
	TOTAL - -	2	3	15	¾	
Bustee Lumberdar - -	- - -	–	3	2	10	
and his 2 co-sharers; viz.	Askurn - -	–	3	2	10	
	Ramsookh -	–	6	5	–	
	TOTAL - -	–	12	10	–	
Hurkoo Lambardar -	- - -	–	1	11	5	
and his 8 co-sharers; viz.	Ooday - -	–	1	11	5	
	Boodha - -	–	1	11	5	
	Mawasee -	–	1	11	5	
	Soodun - -	–	1	11	5	
	Sookhdeo -	–	–	15	10	
	Salug - -	–	–	15	10	
	Logegram -	–	3	2	10	
Tookram, a	Ramdutt -	–	6	5	–	
	TOTAL - -	–	18	14	15	
Hunta Lumbardar - -	- - -	–	8	6	15	
and his 2 co-sharers; viz.	Dhoomee -	–	8	6	15	
	Nundun -	–	8	6	15	
	TOTAL - -	1	5	–	5	
Bahal Lumbardar - -	- - -	–	1	7	16 ¾	
and his 5 co-sharers; viz.	*Bohoroo -	–	12	10	–	
	*Ramsahoy -	–	1	7	16 ¾	* Sons of Salar.
	*Jesookh -	–	1	7	16 ¾	
	*Jussount -	–	4	3	5	
	*Seeta - -	–	4	3	5	
	TOTAL - -	1	5	–	¼	

QUISTBUNDEE, or MONTHLY REVENUE INSTALMENT, as proposed by the MALGOOZARS.

	KURRELF INSTALMENT.					RUBBEE INSTALMENT.			Jaith.	TOTAL.
	Kooar.	Katick.	Aghan.	Poos.	Maugh.	Phagoon.	Chyt.	Bysakh.		
1st PUTTEE:		Eight Annas.				Eight Annas.				
Banee Ram -	85 - -	248 - -	248 - -	248 - -	248 - -	248 - -	330 - -	660 - -	335 - -	2,650 - -
2d PUTTEE:		Nine Annas.				Seven Annas.				
Hurkoo & others -	86 - -	172 - -	172 - -	172 - -	86 - -	86 - -	172 - -	285 - -	172 14 -	1,403 14 -
TOTAL - -	171 - -	420 - -	420 - -	420 - -	334 - -	334 - -	502 - -	945 - -	507 14 -	4,053 14 -

TRANSLATION of the UMMUL DUSTUCK, or Agreement between Government and Managers of Revenue.

AGREEMENT as per Puttee, granted to Banee Ram, zemindar of 13 biswas and 15 biswansees of Mouza Silareeh, pergunnah Chuprowlee.

WHEREAS the settlement of 13 biswas and 15 biswansees of this village having been concluded from 1235 to 1246 F., a term of twelve years, under the provisions of Regulation VII. of 1822, at the total jumma of 31,800 rupees of the Furruckabad kaldar, 45 sun rupee, the half of which is 15,900: this agreement is executed under the following specifications:

1st. The persons engaging for the Government Revenue are to obey orders as underwritten, to the end of the present lease. No increase of jumma to be demanded.

2d. Should it at any time be proved that the malgoozars or engaging proprietors have either directly or indirectly used collusive means to conceal any part of the lands appertaining to the village, or of having withheld any point of information connected with the revision of the settlement, they will be dealt with accordingly.

3d. The ryots are to be treated kindly, every exertion made to improve the cultivation of the soil, and extending the population.

4th. The settlement is to be formed upon an equitable basis with reference to average pergunnah and village rates, and a due observance of tenderness to the village community carefully avoiding all manner of excess in the demands.

5th. The fixed assessment is to be regularly paid into the public treasury, according to the instalments. All profits and losses are to be borne by the parties holding the farming interests of the estate.

6th. The repair of the public roads to be at the expense of the malgoozars as heretofore, according to ancient usage.

7th. No deviation from established rules as to the rights of persons, whether of the lower classes or village servants, shall be allowed.

8th. Every attention is to be afforded to strangers and travellers, and the protection and safety of the roads.

9th. To be answerable for the adjustment of the dues of the putwary and village watchman.

10th. A rigid adherence to all the legislative enactments now in force, and which may hereafter be enacted; being accountable for every transaction either of a judicial or fiscal nature.

11th. Should it be at any time established to the satisfaction of the Revenue authorities that the cultivation of the lands has been wilfully neglected, and thereby causing a decrease in the assets of the estate, no consideration whatever will be allowed.

Dated 28 June 1827.

Annual jumma - - - - -	Rs 2,650 -
Harkoo, Sunlook, Bustee, Hinta, Behal, for	1,403 14, on same conditions
	4,053 14

Appendix, No. 3.

Commissioners of Revenue and Circuit.

RATES per Beegah of every kind of land cultivated for staple articles of produce, viz.—

	Rs	A.	P.
Sugar-cane	8	6	–
Murwa	1	15	10½
Cotton	4	4	7½
Carrots	2	4	–
Churree	1	15	10½
Oil Seed	2	4	–

Division of the grain produce, viz.—

The Government share; the cultivator's share: both in equal moieties.

PUTTEE UMMUL DUSTUCK, or Agreement between Landlord and Tenant.

WHEREAS this agreement, granted to *A. B.*, cultivator in Mouza Selaneh, pergunnah Chuprowlee, witnesseth, that I have assigned 25 beegahs out of my own puttee to him, to cultivate from 1235 to 1246 F. inclusive. He may confidently prosecute his labours, and use his best endeavours in the cultivation of the land, liquidating, harvest after harvest, the amount of rent at the subjoined rates: no excess whatever shall be demanded of him, even on account of village expense, saving what may be incurred in ordinary and necessary cases, and then not to exceed five per cent. upon the Government jumma.

RATES per Beegah of every kind of land producing staple articles, viz.—

	Rs	A.	P.
Sugar-cane	8	6	–
Murwara	1	15	10
Cotton	4	4	7½
Churree	1	15	10
Carrots	2	4	–
Oil Seeds, &c.	2	4	–

Division of the grain produce in every kind of land, viz.—

The Government's share; the cultivator's share: both in equal moieties.

(signed) *R. C. Glyn*, Collector.

No. 10.—RESOLUTION of GOVERNMENT.

THE Governor-general in Council, having deliberately considered and fully discussed the subject of the above Minutes, proceeds to record the conclusions to which he has been led, and the final arrangements which it appears to be desirable to adopt for establishing in the Revenue department a better system of direction and control; and for providing in the Judicial department for the more efficient and prompt administration of criminal justice.

In the Revenue department, it appears to his Lordship in Council to be unquestionable that the present Boards neither adequately superintend the executive officers of the districts under their authority, nor afford to Government that aid in the administration of Revenue affairs, which its other avocations render it indispensably necessary to require.

In the various instances of embezzlement which have occurred, it has almost uniformly appeared that the defalcation might be traced to the prevalence, for a long period, of abuses which could not have escaped the knowledge of a controlling authority resident in the vicinity, and frequently visiting the districts. In scarcely any instance has it been found that the criminals have suddenly formed the design of converting to their own use any part of the public money intrusted to their charge. Their guilt has grown out of minor offences, to which they have been generally prompted by some neglect or misplaced confidence, gradually leading them to the grossest fraud, through a long course of irregularity.

Proceedings frequently come under the notice of Government which manifest the existence of misunderstanding between the Board and collectors, that could not exist, if the former had the power of frequently holding a personal communication with the latter; which seriously hinder the transaction of business, and which load the public records with voluminous correspondence on the merest matters of detail. In a recent case, the Board and Government were left for some time in doubt, whether the collector of a district was really able to discharge the ordinary duties of his office. The Beerbhoom doubt was not cleared up until a member was specially deputed to the spot by Government; and the result of his inquiries, though on the whole satisfactory, was not such as to remove the impression that a much closer control should be exercised over the affairs of the district than has yet been applied. It is understood that the Board are by no means satisfied with the conduct of the collector of Mymensing. The benefits which have resulted from the institution of a collectorship at Bakergunge appear to fall greatly below the prospect of advantage with which Government resolved upon the measure. In Chittagong and Sylhet, a number of years have passed in endeavours to assert the right of Government to lands, stated to be certainly liable to assessment. Measurements and other proceedings have been adopted, involving a considerable expense; but as yet little or no practical benefit has resulted to the state.

The collector of Bhangulpore, Mr. Ward, himself long ago suggested to the Board the great advantage that would result from a visitation by one of the members, particularly in the

Appendix, No. 3.

Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

the speedy determination of various questions involving no inconsiderable amount of revenue, and otherwise of much importance, of which the decision must, under the present system of management, be protracted through a long course of correspondence; and the Board, from their late report regarding the progress made by that officer on the settlement of the Domineekoh, appear to be fully sensible of the great benefit to be derived from a personal communication with him.

In Moorshedabad, the Board have recently stated there are many important arrangements to be effected, some of them likely to be productive of a considerable increase of revenue, which ought not apparently to have been so long delayed; and in several other districts there is said to be much to be done that is left undone.

The precise extent to which the interests of the Government or those of the people suffer from the want of a more energetic control, or the degree in which the executive officers fail, where they do fail, cannot of course be precisely stated: in fact, one of the strongest grounds for inferring the inefficiency of the present system is, his Lordship in Council conceives, to be found in the want of precision which characterizes the information attainable in regard to the circumstances of the several districts and the administration of them.

In the above remarks, the Governor-general in Council has immediate reference to the Lower Provinces. In the unsettled districts, where every collector is now engaged in a course of detailed inquiry affecting most deeply the interests of Government and of the agricultural community, it would be idle to enter at length on any course of argument to prove the indispensable necessity of placing the executive officers under the direction and control of superiors, whose sphere of authority may admit of their frequently visiting the several districts under them, and of their being always accessible to the petitions of the people. The conduct of the Central Board has very frequently obtained for it the approbation of Government. Their reports are always highly valuable. But it is impossible not to perceive that the extent of country under their authority seriously hindered them from doing what they otherwise would have done, in stimulating and directing the collectors under them in the revision of the settlement and detailed assessment of the country, to add largely to the public resources, and at the same time to afford, where necessary, relief to those by whom or at whose risk and charge the land is cultivated. On this head it is sufficient to refer to the districts of Allahabad and Goruckpore. And if the financial advantages that might be secured are important, still more so must his Lordship in Council regard the sum of happiness and comfort which the substitution of a moderate and equal assessment for a system of undefined taxation may be expected to create. At the present moment, the Board is very properly about to visit Goruckpore, for the purpose of instructing the collector on various points of detail, which can only properly be settled in personal communication; yet their presence appears to be required with equal urgency in the opposite side of their jurisdiction, viz. in Bundlecund, where the Revenue officers have the difficult task to perform of correcting the evils of over-assessment, and of remedying, as far as possible, the mischiefs which have resulted from public sales, and the injudicious application of unsuitable laws.

In the Western provinces, the Board has for some years ceased to exist as a collective body, the senior member being employed in Rohilcund, Mr. Fraser having separate charge of the northern districts of the Doab, and Mr. Newnham superintending the remainder of the Board's jurisdiction with his head station at Furruckabad. As far therefore as advantage is to be found in personal discussion at the Board, the object of its constitution is wholly lost. The efficiency of the individual member is at the same time seriously impaired by the necessity under which they are placed of making frequent references to their distant colleagues, which at once lessens their authority with the collectors and the people, and takes from them that sense of responsibility which, under such circumstances, is the best security for the faithful and zealous discharge of a high trust.

On the whole, therefore, his Lordship in Council is decidedly of opinion, that, in the Revenue department, very great advantage will result from the employment of commissioners, as proposed, to superintend the affairs of a moderate extent of country; and it appears to be clearly necessary, that a Board should be established at the Presidency to maintain a general control; to secure, as far as local circumstances admit, consistency of proceedings; and to relieve Government from many of the questions of detail on which it is now reuqired to decide.

In the Judicial department, his Lordship in Council would anticipate not less advantage from vesting the commissioners with the powers that now belong to the courts of circuit. On this head, the general observations contained in Mr. Bayley's Minute seem almost to supersede the necessity of further argument. Instances are fresh in recollection, in which very serious abuses and errors of management have been allowed to prevail for a long time unchecked by the courts of circuit and superintendents of police; which could not possibly have had existence without being known to an officer exercising the powers of a commissioner, frequently visiting the districts under him, and with all the avenues of information which will open themselves to one exercising jointly Judicial and Revenue authority. In the hurried visits which judges of circuit now pay to the stations of different magistrates under their authority, they have no leisure or opportunity to acquire that accurate knowledge of men and circumstances which is essential to any thing like an energetic control; and the people can scarcely expect to find adequate protection from an officer who is destined to revisit them only after a long interval, who in the changes of the service may probably never revisit them at all, and who has little knowledge, and can take no cognizance, of those matters on which hang the most valuable interests and the strongest attachments of the prevailing classes of the community.

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Under the proposed plan, his Lordship in Council confidently expects, that the commissioners will attain to such a thorough acquaintance with their respective divisions, as to render it next to impossible that any systematic abuse can be practised, or any serious wrong sustained, by the act or omission of the executive officers, without coming to their knowledge. It will be the care of Government to make such a selection as may afford a satisfactory assurance that this expectation shall not be disappointed, and that the knowledge of abuse or wrong being obtained, remedy and redress shall promptly follow.

Independently too of the greater efficiency of the controlling authority, his Lordship in Council is disposed to anticipate much advantage from the greater punctuality which will be observed in effecting the general gaol deliveries throughout the country. The necessity of making their circuits for this purpose will obviate any risk of disappointment in the expectations which Government have hitherto failed fully to realize, of the advantage anticipated from the frequent visitation by the superior Revenue authorities of the districts under their control; and on the whole, his Lordship in Council sees no reason to conclude, that the proposed arrangement will not only provide a remedy for the evils that have arisen out of the irregularities and delays which have occurred in holding the sessions, contrary to the original design of Government in instituting the courts of circuit, (evils which on any other plan could be remedied only by measures involving a considerable increase of expense), but will at no distant period secure for the people a better administration of criminal law, and a more complete security against the abuses incident in all countries to the powers necessary for police and for the collection of revenue, (abuses here aggravated by peculiar circumstances), than could be hoped for under the existing system.'

In so far as the Revenue department is concerned, the Governor-general in Council conceives, that in adopting the proposed arrangements, he is only following the course that has been pointed out by the instructions of the honourable Court. The separation of the controlling and executive authority is an improvement on the scheme followed at Madras, of which his Lordship in Council confidently anticipates their entire approval; and such separation of authority is a circumstance that appears to remove all the objections which might otherwise be urged to the union of Revenue and Judicial powers. For, as is justly remarked by Mr. Bayley, even allowing the danger of abuse from giving magisterial powers to collectors, there seems to be no rational ground of apprehension from an union of power in the controlling authority, excepting under circumstances which would forbid Government from confiding in it at all.

The union of civil and criminal powers in the provincial courts appears to form no essential part of the existing system. It is an arrangement which is generally condemned as injurious to the administration of civil justice, not only in those courts, but in the sudder and in the district Adawluts. The separation consequently of the functions of the courts of circuit from those of the court of appeal, will be generally regarded as an improvement in the latter; and on the fullest consideration of the subject, his Lordship in Council can perceive no ground on which the transfer of the former to the Revenue commissioners can be justly objected to, even by those who most strenuously desire to preserve in its essential features the general scheme of administration prescribed by the rules of 1793. In both capacities the commissioners will act as deliberative functionaries, entirely free from the haste and passion which may be supposed occasionally to influence the executive. In neither can they have objects to carry in the one department through any perversion of their powers in the other. The proposed arrangement leaving untouched the jurisdiction of the civil courts, does not break down any of the barriers which have been supposed to be necessary or useful for the protection of the people against the errors of the Revenue authorities. The objection which may be urged on the score of the subordinacy of the magistrates to the commissioners appears to have little weight. It has no application to districts in which the civil judge does not hold the magistracy; and under the plan which Mr. Bayley contemplates for the extension of that system, it would altogether cease.

In the cases (there are now many) in which the collectors or sub-collectors are also magistrates, a corresponding union of powers in the controlling authorities is indeed almost essential to their efficiency. Nothing can well be less reasonable in itself, nothing can appear to the natives of the country so preposterous, as that the young officers who hold the situations of sub-collectors and joint magistrates should be legally authorized, in the latter capacity, utterly to disregard the injunctions and advice of the Board, to which they are subject as Revenue officers; and that the members of the Board, vested with the important trust of regulating (subject to the control of Government alone) the assessment to which the whole landed property of the country shall be subjected, should yet be unable to interpose to protect the zemindars and cultivators from the lowest retainer of the police, but are compelled to inform those whom they see injured before their eyes, that they must seek redress at a distant tribunal. What conclusion can the people of the remoter parts of Sheranpoor and of the central Doab be expected to draw, when they see Mr. Fraser in the one quarter, and Mr. Newnham in the other, sedulously scrutinizing the acts of the Revenue officers, village by village, yet hearing without notice, at least without redress, the complaints which the people may prefer of the violence or extortion of the police? What, but that in the sight of Government the collection of revenue is as every thing, and the protection of the people an object of altogether secondary importance? And of all causes of discontent, there is probably none so pregnant with mischief, among the people of India, as any symptom, on the part of Government or its officers, of an indisposition to hear the petitions of the people. Much actual injustice and much denial of justice they will bear with comparative patience, attributing, really as well as in words, to the errors of their rulers the unhappiness of their fate.

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Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

fate. But to turn a deaf ear to the voice of complaint; to deny to those who think themselves aggrieved the consolation, however poor, of stating their grievances, and the chance, however slight, of obtaining redress, is felt by the sufferer, and regarded by the community, as an unequivocal mark of the most odious tyranny.

These last observations are applicable with peculiar force to the Western provinces, because there, not only are the people less patient of wrong, but because the arrangements of the Revenue officers in the settlement of villages, and those of the magistrates for the establishment of the police, are constantly found to be closely connected with each other. In truth, every scheme of police not built upon the institutions of the people, or fashioned to meet them, must be inefficient if not mischievous. It may suffice to prevent open violence and atrocities, but it will do so nearly in the same way as the military occupation of the country would do, with the same vigour, the same show of success, but with the same inherent evils and the same want of every tendency to improvement.

In a word, to frame Judicial measures under such circumstances, without a full advertence to Revenue arrangements, is to build in the dark and without a foundation. On the other hand, the rights that belong to Government in the Revenue settlement of the country are such, as that the mode in which they are exercised must have a very important influence on the whole frame of society. To exercise them in ignorance or carelessness of their effects upon the Judicial administration of the country, is to leave to chance the direction of one of the most powerful instruments by which a Government can work upon the will and destiny of its subjects.

In whatever light, therefore, his Lordship in Council contemplates the proposed measure, he sees abundant reason to conclude that it will be greatly conducive to the public interests. Nor must it be forgotten that we are not now discussing the question, how a scheme which has generally answered its object can be improved; but how glaring defects, urgently calling for the interposition of Government, can be remedied.

As to the expediency of introducing generally that union of Judicial and Fiscal powers which prevails in the districts to which the printed Regulations do not extend, the Governor-general in Council does not now propose to enter upon any discussion. His Lordship in Council will only observe generally, that in all departments, and under all forms, real control and our security for good government must rest chiefly on the authority of superior over inferior men; failing that, on the authority of those who have time to deliberate, over those who are obliged to act with little or no deliberation, and in the necessity on the part of the executive of rendering an account to a controlling authority, possessed of sufficient knowledge to make deception, as to facts, unlikely. In all cases, control without knowledge must be nugatory or mischievous; and while the proposed arrangement appears to involve no consequence likely to prove injurious, it has a manifest tendency to ensure the possession, by the controlling officers, of that local information which is essential to their efficiency, and to the acquisition of which, in jurisdictions so extensive as now belong to them, the variety of rights and institutions prevalent in different quarters, and various other circumstances peculiar to the country, oppose extraordinary obstacles.

Whatever may be finally resolved in regard to the administration of civil justice, the measure now proposed can be no impediment to its adoption. On the contrary, if it should be resolved altogether to disjoin that branch of Judicial function from the police, and the punishment of crime, a step towards that end will have been made by relieving the judges of appeal from the duties of the circuit; and on the other hand, should it be ultimately deemed expedient to effect a more general union of municipal functions, the attainment of the object will be facilitated by the appointment of the commissioners. His Lordship in Council observes, that even in the Regulation provinces, the union of the powers belonging to the courts of circuit and Revenue Boards is not now for the first time to be tried. In Cuttack, the plan, with a similar union in the civil department, has now been in operation for about ten years, and has been attended with benefit. In part of Rungpore also, it has been tried successfully; and out of the Regulation provinces, Government has had every reason to be satisfied with the result of a system, under which the principle of united power is carried much further. In Delhi especially, a vast improvement in the resources of the country; a corresponding augmentation of revenue, collected without any recourse to the measure of public sale; the preservation of the village communities and institutions; an entire prevention of that confusion as to private rights, which besets the Revenue and Judicial officers in Bengal and the Western provinces; a change from utter disorganization in the general government to a state of tranquillity and order, not less complete than is known in any other quarter of the country, appear to evidence the advantage of the system; and the more one may be disposed to anticipate evils from the union of powers in the executive, the stronger must the argument appear in favour of such an union in the controlling authority, if we allow that it has sufficed to prevent or correct them.

If the plan was not equally successful under the Western Board, during the few years in which they administered the affairs of the Delhi territory, the result is to be attributed to causes that will not be found in the proposed arrangement: the jurisdiction of the commissioners being limited, their powers accurately defined, and their responsibility undivided.

In Cuttack, the only change which his Lordship in Council deems to be necessary is, that of placing the commissioner under the authority of the sudder court in the civil, as he actually is in the criminal department; and in Revenue matters he will, like other provincial commissioners, correspond with the Presidency Board. It appears to be also advisable, that he should exercise the same powers in the district of Midnapore, which is to be annexed to his division.

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There are two other quarters in which also his Lordship in Council considers it to be advisable to adopt the system followed in Cuttack, (modified as above stated), viz. the districts which are to be placed under the commissions of Assam and Arracan.

For a considerable time to come, it will be obviously inexpedient to introduce into those provinces any complicated system of government, and to the commissioners employed in the superintendence of them, there must necessarily be confided a larger trust than is generally necessary in our older possessions. The officers appointed for the duty will consequently be, like Mr. Scott and Mr. Pakenham, select men, to whom the full powers of the Cuttack commission, with such modifications as local circumstances may suggest, may unobjectionably be confided, even though the general union of powers in the controlling authorities should not be deemed expedient. Whether the commissioners shall, in their ordinary Judicial and Revenue administration of Assam and Arracan, act under the authority of the Sudder Dewanny Adawlut and of the Presidency Board, is a question that will remain for future consideration. Ultimately, such a measure may be contemplated as one calculated to secure the more regular administration of civil and criminal justice, and of the Revenue affairs, and to relieve Government from the necessity of exercising any minute interference; and in the mean time, by the arrangement above mentioned, the efficiency of the commissioners of Arracan and Assam will be augmented, and the inconsistency of their possessing different degrees of trust in tracts immediately adjoining to each other, and likely by colonization to be occupied, partially at least, by the same or similar races, will be obviated.

As suggested by Sir Charles Metcalfe, his Lordship in Council proposes to place the several divisions of the Delhi territory under a single commissioner, the adjoining districts of the North Doab to form a separate charge. If both officers are to reside at Delhi, this will certainly be the most convenient arrangement; and though, supposing the officer in charge of the northern districts to have his head quarters at Paniput, some advantage on the score of proximity would result from the union of districts on both sides the Jumna, yet, on the whole, the plan of keeping them distinct appears to be preferable.

It at the same time appears to his Lordship in Council to be advisable to extend to the districts in question the plan of administration so successfully followed in Cuttack, with the modification obviously suggested by local circumstances, that the resident at Delhi shall, in regard to them, exercise the powers possessed by the Sudder Adawlut and Presidency Board, which he is to continue to exercise in the Delhi territory while relieved from the duty of holding the sessions of gaol delivery at the stations of the principal assistants, and from that of exercising a minute control over those officers in the Revenue department.

From such an arrangement, great advantage may be anticipated in all branches of the administration.

At Delhi, the history, functions, and plans of the different rulers and managers who preceded us in the Northern Doab, with many other particulars importantly affecting the interests of Government and those of the people, are to be ascertained with a facility not enjoyed by tribunals stationed within the territories ceded by the Oude Government, still less by one fixed at Calcutta. The village communities and popular institutions in the Delhi territory having been preserved entire, afford to an officer conversant with the details of Revenue management there, very great advantage in steering his way amidst the doubts and difficulties in which public sales and erroneous records, and the other intricacies of an artificial and exclusive system, have involved the rights and interests of the different classes of the agricultural community on this side the Jumna; and it is accordingly worthy of remark, that the first officer who satisfactorily developed the state of property as existing under a great variety of tenure in Seharunpore, was a gentleman (Mr. Cavandish) who had been trained in the Delhi territory, and whose reports, with the defects naturally incident to a new undertaking, and notwithstanding the shortness of his deputation, are stated to afford more real information relative to the district than is to be found in the accumulated records of twenty years, and have been frequently recognized by Government as possessing the highest value.

The course of trade in all the great staples of the country lies in lines running across the Jumna; the arrangements of the merchants embrace the marts lying on both sides of that river; the price of agricultural produce, and the prospects consequently of the zemindars in the one quarter, are materially affected by events in the other. That important work, the Doab Canal, from the completion of which a great improvement in the cultivation of the country and a large increase of revenue has been anticipated, is under the superintendence of officers residing at Delhi. But what is much more important, the people on both sides the Jumna are stated to be, generally speaking, of the same tribes, and closely connected together.

One prevalent caste in the north of the Doab, the Goojuns, are still notorious for their predatory habits, their gross ignorance, and their aversion to industry. A few years ago many of them were in a state of open resistance to authority, and for a long time to come they will, in a peculiar degree, require an energetic government, equally to secure their rights and to enforce their obedience; for in proportion as they are too rude to understand, or too insubordinate to obey laws, is their liability to suffer by the acts of designing men.

The Revenue and Judicial administration of Seharunpore especially was for a considerable time very imperfectly calculated to meet the exigency of the case; the disorders occasioned by the usurpations of the Revenue farmers and Sudder malgoozars, and by the abuses of an ill-controlled police, are still, it is understood, very imperfectly corrected; and they can be corrected only by a system of administration that shall carry justice to the doors of the people, with a close observation of the state of things as actually found to exist, rather than as exhibited in records, or represented in formal memorials.

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Papers referred to in Letter from the *Bengal* Government, 10 Dec. 1828.

By the arrangement in question, the communities on both sides the Jumna will have one head to look to. Those within the Doab will, if they deem themselves aggrieved by the commissioners, find a higher tribunal comparatively close at hand, in the natural capital of that part of the country, a tribunal which is at present occupied by one well known to them for extensive experience in Revenue and Judicial affairs, and possessing in a singular degree the respect of his fellow-servants, and which is likely always to be occupied by gentlemen of rare qualifications. The advantage of such an arrangement, contrasted with one which shall refer suitors, resident within sight of the walls of Delhi, to the provincial court at Barelly, and thence to Calcutta, merely because they live in the Doab, or though living in Delhi, (and there are many such), because the property in contest lying possibly within a coss of that capital is separated from it by the Jumna, need not be insisted upon. In the police, the complete co-operation of the authorities on the two banks of the river, which will thus be more effectually secured, is likely to be attended with advantage, and in all departments, in short, the connexion of the districts in question with Delhi appears to be likely to promote the interests of the people and those of Government, independently of the high character of the resident; while it is obvious, that any relief which may thus be given to the sudder court will also in its degree be advantageous.

With the above exceptions of the Assam, Arracan, Cuttack and Delhi commissioners, his Lordship in Council proposes, that the judicial functions to be exercised by the commissioners shall be confined to those which belong to the courts of circuit and superintendents of police. It does not immediately occur to his Lordship in Council that any of the powers vested in those courts ought to be withheld from the commissioners, nor that they can in any case require further authority in matters of police and criminal justice than what those courts and the superintendents of police possess. But some new rules, in regard to the employment of the law officers, will apparently be necessary.

The offices of superintendents of police may certainly be abolished, and are to be abolished accordingly; and the commissioners of revenue and circuit will, for their respective divisions, perform all the duties and exercise all the powers now belonging to the superintendents, with exception to that given to them by Regulation X. 1824, in regard to the pardon of persons charged with or suspected of criminal offences. It appears to his Lordship in Council, that the magistrates and joint-magistrates should be authorized to tender a pardon in the several cases specified in the said Regulation, without reference to any superior authority, under their responsibility to the superior courts and to Government for the sound exercise of the discretion vested in them.

The commissioners acting under Regulation I. 1821, may likewise, his Lordship in Council conceives, be now advantageously dispensed with, and their powers transferred to the commissioners.

The use made of the process of sale in the early stage of our administration in the Western provinces is deeply to be lamented. No error has been productive of so much misery and mischief. In districts especially containing large communities of zemindars, who have been accustomed to account to Government for its revenue through the agency of head men, the evil has been of the most aggravated description. The existence of such communities, like that of parish and country associations, appears to offer to Government an invaluable facility in the administration of affairs; the details of which, if not administered by the people for themselves, can never be well administered. The union they secure, while thus municipally advantageous, seems to present no danger of political inconvenience; but on the contrary, to offer in some cases, under good management, the prospect of political security. To preserve them, as in the Delhi territory they have been preserved, should be an object of our most anxious care. To restore is a far more difficult task. The revolution caused by public sales has, therefore, been of the worst consequence to Government. To individuals it has in all instances occasioned much distress; and in the case of the communities now referred to, it has thrown into an almost inextricable confusion the rights and interests of the people: no one can say precisely what has been sold. On the one side, the great body of the landowners have to urge, that a just Government can never have designed to deprive thousands of their hereditary property because the heavens denied their rain; or to subject them to a cruel confiscation, because some of their body were improvident. On the other hand, the purchasers allege that an honest Government cannot have exposed to sale what it did not intend they should possess. On the whole, his Lordship in Council is of opinion, an opinion strengthened by the consideration of the proceedings of the special commissioners, that justice and policy equally require us to proceed, with a decided resolution to allow the zemindars who have suffered by sales the benefit of every doubt. The process was in fact, in most cases, a confiscation incurred by alleged default; and in their suits for the recovery of the property so lost by them, the parties may equitably claim to benefit by every circumstance which ought to have availed them before the forfeiture took effect.

Adequate compensation must of course be made, as prescribed in Regulation I. 1821, to the purchasers in cases in which they may be deprived of property, except on clear proof of their title being bad. But the utmost amount of compensation likely to be chargeable on this principle, in a country in which the Government demand is still variable, must, his Lordship in Council conceives, bear but a small proportion to the expense incurred by Government in maintaining the establishment of a separate commission; and under the plan now contemplated, our progress in giving redress will, it may be hoped, be much more rapid. The facts touching the sales and the arrears, for or on pretence of which they were made, do not seem to be, generally speaking, difficult of ascertainment. In the majority

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of the cases reported to Government, the injury done to the zemindars has been manifest. The nature of the evidence (the documentary evidence especially) is ordinarily such as to fall properly under the cognizance of the Revenue officers; and no opportunity can present itself more favourable to the full developement of all the circumstances necessary to a sound judgment than that enjoyed by a collector when engaged in making a detailed settlement of the lands in dispute. This remark is in an especial degree applicable to those investigations which the special commissioners have been required to prosecute, in order to give effect to their decrees relative to Putwarree estates, when the claims of numerous parceners have to be adjusted. In such cases, it seems to be scarcely possible to come to any satisfactory conclusion, except upon the spot and among the people, with all the lights which a field measurement and detailed census throw upon the village concerns, and with the power of immediate reference to every one concerned in the event, and to all in the vicinity who are cognizant of the truth. In such cases it frequently happens, that the original rights of inheritance from the common ancestor have been modified by respect for long possession; and the actual distribution of fields differs widely from the nominal divisions of the village: among different tribes and in different places, the community of property will be found to prevail in very different degrees. The modes of distributing the common burthen are equally various. Men professing the Moselem faith will, in some cases, be found to retain the name and almost all the usages of Hindoos; and, independently of any intermixture of religion, the general law of inheritance, more especially the inheritance of females, will be found to yield to long usage. In such a state of things, there is infinite danger of mischief in any attempt to settle the rights of a large coparcenary, otherwise than in the mode prescribed for collectors when employed in revising the settlement. The result of the settlements which have been made seems to show that the people are by no means unreasonably litigious, when their claims are investigated under circumstances favourable to the discovery of truth. In their villages and surrounded by their fellows, they yielded readily to what is condemned by the general voice. On the spot, points notorious and palpable are settled without delay; which in a distant cutcherry would lead to endless litigation and falsehood; and the officer who has to decide is at once saved the labour of much useless inquiry, and finds a thousand facilities for investigation and decision, which he must otherwise look for in vain. It is understood, that the Mofussil special commissioners are themselves strongly impressed with the views above stated. They are consequently desirous of keeping distinct the duty of deciding on the primary point of the validity of the sale, and that of ultimately adjusting the relative rights of the zemindars among each other. It appears however to be very desirable, on grounds that have more than once been explained, that the two things should, as far as possible, be determined simultaneously. And his Lordship in Council is not less satisfied of the expediency of combining the redress of wrongs sustained through the operation of public sales and errors of record with the settlement of the revenue. The collectors and other officers vested with the powers of collectors may ascertain and report all the necessary facts; and the Revenue commissioners will be authorized to decide upon them (after such further inquiry as may appear necessary) with the same powers as belong to the special commission acting under the provisions of Regulation I. 1821. With the exception of cases (few such are likely to occur) which may be appealable to England, it seems to be proper that a special appeal only should be allowed from the decision of the commissioners; and this appeal, his Lordship in Council is of opinion, should lie to the Presidency Board, which will thus take the place of the Sudder Special Commission. The cognizance of the commissioners should extend to all cases, however recent the cause of action; it appearing to be certain that there are many claims of the nature in question requiring to be promptly investigated and properly cognizable, by collectors making detailed settlements, which have their origin in acts done subsequently to the period assumed in Regulation I. 1821; and there being no sufficient reason for denying to wrongs of later, the same remedy as is afforded to those of older date, but many reasons to the contrary.

The cases actually before the Sudder Special Commission in appeal, and the appeals which may be preferred to them previously to the legal enactment of the arrangement now contemplated, will be tried and decided as heretofore. And it being the intention of his Lordship in Council to separate the office of commissioner, under Regulation III. of the present year, from that of judge in any of the established courts, the gentlemen who are commissioners under the last-mentioned law for the divisions of Calcutta and Moorshedabad, will continue temporarily to act as a Sudder Special Commission under Regulation I. 1821, for the trial and decision of the appeals in question. In concluding this part of the subject, his Lordship in Council cannot omit to record the expression of his hope, that a recourse to public sale for the recovery of arrears of revenue, especially in the unsettled districts, may hereafter be almost if not altogether avoided; and in no case ought the progress to be enforced without a full and accurate knowledge of the nature of the interest possessed by the party whose estate may be proposed for sale.

In respect to the Revenue department, his Lordship in Council generally approves the principles sketched in the secretary's memorandum, for the determination of the duties and powers to belong respectively to the Presidency Board and the commissioners. But on these points, as well as in regard to the final distribution of districts, on which head, with exception of the Delhi division, the Governor-general in Council sees no immediate reason to object to that proposed by Mr. Bayley, his Lordship in Council will postpone his decision. It appears to be desirable, in the first place, to have them separately considered and reported on, and for this purpose his Lordship in Council directs that the secretaries

to

to Government in the Territorial and Judicial departments, and Mr. Blunt (whom it is his Lordship's intention to appoint to a seat in the Presidency Board), may immediately associate themselves as a committee. The same officers will prepare a draft of the rules necessary to give effect to the present resolution, with such subsidiary arrangements of detail as they may see reason to recommend; distinguishing carefully those which it may be necessary to publish in the form of a law, from those which will be better promulgated to the officers concerned in the shape of instructions. They will also prepare schedules of the uncovenanted and native establishments to be allowed to the Presidency Board and to the several commissioners, observing every practicable degree of economy; and of course availing themselves to the utmost of the establishments now attached to the several courts of circuit, Boards and commissioners.

The subject of the allowances to be assigned to the commissioners will be separately considered. The change which the proposed arrangement will make in the functions to be discharged by a number of the Judicial and Revenue officers appears to render it proper to enter on a general consideration of the allowances attached to the several offices held by covenanted civil servants in those departments; and the state of the finances of British India at the same time urgently suggests the expediency of extending the revision to all other branches of the civil service.

The subject will be resumed in the Financial Department.

No. 11.—STATEMENT showing the INCREASE and DECREASE of EXPENSE in ALLOWANCES to COVENANTED CIVIL SERVANTS, that will result from the proposed Appointment of a GENERAL REVENUE BOARD and of COMMISSIONERS of REVENUE and CIRCUIT, with eventual Alteration in the Office of JUDGE of APPEAL.

	Present Allowance.	PROPOSED ALLOWANCES.		Future Saving to be effected as Vacancies occur.	Immediate Saving.	Immediate Increase of proposed Allowances to be granted to Commissioners, &c.	REMARKS.
		Sonat.	*Siccas.*				
SUDDER DEWANNEE & NIZAMUT ADAWLUT, 4 Judges	2,25,000 —	— —	2,00,000	25,000			
Successor to Mr. W. Blunt 5th ditto	55,000 —	— —	50,000	— —	5,000		
SUDDER BOARD.							
Two Seniors of present Board and Mr. Blunt	1,67,412 —	— —	1,50,000	17,412			
COMMISSIONERS OF REVENUE AND CIRCUIT.							
1. Second of Western Bd	52,250	50,000 —	42,000	40,191	9,809		
2. Third of - ditto -	46,270	44,275 —	42,000	40,191	4,084		
3. Supt of Police, Western Provinces	43,890	42,000 —	42,000	40,191	1,809		
4. Third of Barelly Court	40,080	38,351 8	42,000	40,191	— —	1,839 8	
5. Second of Central Board	52,250	50,000 —	42,000	40,191	9,809		
6. Third of Central Board - -		40,000 —	42,000	40,191	— —	191 —	
7. Third of Mofussil Special Commission	40,000	38,275 —	42,000	40,191	— —	191 6	
8. Second of Benares Court	41,805	40,001 10	42,000	40,191	— —	189 6	
9. Fourth of Benares Court	36,600	35,021 10	42,000	40,191	— —	5,169 6	
10. Fifth of Benares Court	36,600	35,021 10	42,000	40,191	— —	5,169 6	
11. Second of Patna Court - -		40,000 —	42,000	40,191	— —	191 —	
12. Third - - ditto - ditto - -		35,000 —	42,000	40,191	— —	5,191 —	
13. Second of Moorshedabad Court and Special Commissioner	46,000 —	42,000 —	42,000	40,191	— —	5,809	
14. Third of Moorshedabad - -		35,000 —	42,000	40,191	— —	5,191 —	
15. Third of Dacca Court - -		35,000 —	42,000	40,191	— —	5,191 —	
16. Third of Calcutta ditto - -		35,000 —	42,000	40,191	— —	5,191 —	
17. Fourth of ditto - ditto - -		35,000 —	42,000	40,191	— —	5,191 —	
18. Second of Lower Board - -		45,000 —	42,000	40,191	4,809		
19. Third of Lower Board - -		40,000 —	42,000	40,191	— —	191 —	
20. Cuttack Commissioner - -		45,000 —	42,000	40,191	4,809		
21. Assam Commissioner - -		52,000 —	42,000	40,191	11,809		
	13,02,358 6	— —	12,44,011	88,350	10,809	40,811 10	

(continued.)

STATEMENT showing the INCREASE and DECREASE of EXPENSE in ALLOWANCES, &c.—*continued.*

	Present Allowance.	PROPOSED ALLOWANCES.		Future Saving to be effected as Vacancies occur.	Immediate Saving.	Immediate Increase of proposed Allowances to be granted to Commissioners, &c.	REMARKS.
JUDGES OF APPEAL.		*Sonat.*	*Siccas.*				
Barelly, First - - Fd Rs 50,400	48,226 8	36,000	34,440	13,786 8			
- Second - - 45,000	43,059 6	36,000	34,440	8,619 6			
Benares, First - - 47,025	44,997 -	36,000	34,440	10,557 -			
Fourth of Barelly - - 36,600	35,021 10	36,000	34,440	581 10			
Third - - - - 36,600	35,021 10	36,000	34,440	581 10			
Patna, First - - - -	45,000 -	36,000	34,440	10,560 -			
- Fourth - - - -	35,000 -	36,000	34,440	560 -			
Moorshedabad, First - - -	45,000 -	36,000	34,440	10,560 -			
- Fourth - - -	35,000 -	36,000	34,440	560 -			
Dacca, Second - - - -	40,000 -	36,000	34,440	5,560 -			
- Fourth - - - -	35,000 -	36,000	34,440	560 -			
Calcutta, successor to senior Judge -	45,000 -	36,000	34,440	- -	10,560 -		
Superintendent of Police, Lower Provinces - - - -	45,600 -	36,000	34,440	11,160 -			
- Fifth - - - -	35,000 -	36,000	34,440	560 -			
COMMISSIONERS UNDER REGULATION III. OF 1828.							
First of Dacca Court - - -	45,000 -	45,000	43,062	1,938 -			
First of Mofussil Special Commission - - Fd Rs 42,000	40,188 12	45,000	43,062	- -	- -	2,873 4	
Second of Calcutta Court - -	40,000 -	45,000	43,062	- -	- -	3,062 -	
Retiring Second Member of Mofussil Special Commission - - - 40,000	38,275 -	- -	- -	- -	38,275 -		
Abolished Secretary and Sub-secretary, Western Board - - - 38,400	36,744 -	- -	- -	- -	36,744 -		
Sub-secretary, Central Board 14,400	13,779 -	- -	- -	- -	13,779 -		
Surgeons - - - - 18,559	17,758 11	- -	- -	- -	17,758 11		
First Secretary, Sudder Board, including Commn - - - -	24,060 -	36,000	34,440	- -	- -	10,380 -	
Second Secretary - ditto - ditto -	29,186 -	30,000	28,708	478 -			
Sub-secretary - - ditto - ditto -	9,600 -	14,400	13,770	- -	- -	4,170 -	
	21,63,875 15	- -	19,32,275	1,64,972 2	1,27,925 -	61,296 14	
Deduct Increase - - - - -					61,296 14		
Net immediate Saving - - -					66,628 13		- - Of this sum, Rs 9,000 will be drawn as personal Allowances to Mr. Gorton, Mr. E. Barwell and Mr. Halhed.
Add future Saving - - - -					1,64,972 2		
TOTAL ULTIMATE SAVING - -					2,31,600 15		

To this might be added the expense now incurred in giving up the services of three Provincial Judges to the Special Commissions, independently of what must otherwise have been incurred for the superintendence of Arracan.

Appendix, No. IV.

A SELECTION of PAPERS respecting the Alterations of System which have recently been made, or are in contemplation.

(1.)—MINUTE of Mr. *Butterworth Bayley*, dated 5th November 1829.

(1.) Minute of Mr. *B. Bayley*, 5 Nov. 1829.

THE Board have been long apprized of my intention to submit to their consideration some suggestions connected with the administration of civil justice within the provinces subject to this Presidency. In apology for the delay which has taken place in the fulfilment of that intention, I beg to state, that on maturing my opinions, I doubted if I had sufficiently allowed for certain objections which had not at first struck me so forcibly, and I was anxious to communicate on those points with some individuals in whose judgment and practical experience I had confidence. The result of my communications has induced me to modify or abandon some portions of the plan which I had originally contemplated; and I am aware that much of what I have even now to propose is in opposition to the judgment of several experienced and highly respectable officers in the Judicial department. I further hoped that the annual report, exhibiting the actual state of the business in the civil courts up to the beginning of the present year, as well as the sentiments and instructions of the honourable the Court of Directors, promised in their Letter of the 23d July 1828, would have been received in time to have aided my judgment, before formally placing on record the measures which I contemplated. Lastly, it appeared to me to be undesirable that any extensive changes in the tribunals for the administration of civil justice should be carried into effect, until the new scheme for the superintendence of revenue business and of criminal justice, by means of commissioners, should have been fairly introduced and carried into practical operation. The near approach of the period fixed for the departure of the Government to the Western provinces renders it proper, however, that I should no longer postpone placing my sentiments on the records of Government. Many years having passed since I have had any share in the practical administration of civil justice, I have the less confidence in the soundness of my own views, even when assisted by those of the friends whom I have consulted; but I hope the measures I have to propose may not only meet with the fullest attention from Government, to which their paramount importance entitle them, but that the opinions regarding them entertained by the judges of the Sudder Dewanny Adawlut, and of other experienced public officers, may be collected and considered. I think it better at once to avow that it is my intention to afford as brief an exposition of my view as may be consistent with clearness. I am not only unwilling to occupy the time of the Board and my own time, by entering on any lengthened argument, but it appears to me that the subject, in its general bearings, has so repeatedly been discussed, (and more especially in the Despatch of this Government to the honourable the Court of Directors of the 22d February 1827, which conveyed the expression of my opinions on most of the points now to be considered,) that I could scarcely expect to throw any new light upon it. It must be conceded, I imagine, by those who think most favourably of Lord Cornwallis' plan for the administration of civil justice, that the machinery was, from the very first, inadequate to accomplish more than a small portion of the work it was expected to perform. It was in fact very soon found necessary to introduce various modifications in the system. The higher courts were, from time to time, relieved from many details of minor importance; the powers of the inferior European courts were increased; the aid of the revenue officers and of assistant judges was called in; the jurisdiction of the native tribunals was largely though very gradually extended; objectionable forms were amended or dispensed with, and more summary processes were introduced. Scarcely a year has passed since the promulgation of the code of 1793, in which attempts have not been made to remove the grounds of civil controversies, to expedite their adjustment, or to reduce arrears of suits, which have nevertheless continued to accumulate. It was the principle of Lord Cornwallis' system to provide for the administration of civil as well as of criminal justice, by the almost exclusive agency of European functionaries. The districts into which the country was parcelled out were far too extensive and too populous to be successfully superintended by the individuals to whose charge the Judicial administration was intrusted; and where the population amounted to between one and two millions, the duties expected or required from the judge and magistrate were far beyond the powers of the most active and intelligent officer. The difficulties thus experienced have been since augmented in the degree in which the extension of trade and cultivation, the advance in the value of land, and the progressive increase of population, have multiplied the demands of the public on the time of the civil tribunals. It is obvious that we began by aiming at more than could possibly be accomplished; that the expectation of being able to carry on the administration of justice, civil and criminal, by European agency, was utterly fallacious;

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Papers respecting Alterations of System in the Judicial Department.

fallacious; that no addition of numerical strength to the European portion of the judicial establishments, which the public finances can at present afford, will do more than yield a partial or temporary relief; and that we must necessarily look to the still more extended employment of natives (subject to European superintendence,) if we desire to secure a moderately prompt and efficient administration of civil justice. It is true, as stated in the Letter to the honourable the Court of Directors, under date the 5th of October 1826, that the system, when originally introduced in the year 1793, was ill-calculated to encourage the formation of a class of natives, qualified by their education and character to fill high and responsible situations in the administration of justice throughout the country. They were employed at first either in matters only of very inferior importance, or under the immediate eye of the judges; but as the necessity of having recourse to their assistance became more and more obvious, the original principle was gradually departed from, and an establishment of native judicial officers has consequently grown up, who already exercise very considerable powers. At first they were intrusted only with the decision of suits for money to the extent of 50 rupees; but in the year 1803 a new class of officers, called Sudder Ameens, was established, and invested with power to determine claims referred to them for real and personal property to the amount of 100 rupees. In 1814 their powers, and likewise those of the moonsiffs, were increased, and their situations rendered in all respects more efficient and respectable. In 1821 they were still more enlarged, the cognizance of the moonsiffs being extended to cases of 150 rupees, and the sudder ameens to cases of 500 rupees; and in 1827 a Regulation was passed, authorizing the Sudder Dewanny Adawlut to invest the latter with power, when necessary, to try claims to the amount of 1,000 rupees, so that, as stated in a Minute of one of the judges of that court, nineteen-twentieths of the original suits instituted in the civil courts throughout the country are now determined by the native judicial officers. Thus it appears, that although the system was ill-calculated originally for the encouragement of native officers of this description, yet, at the present moment, a very considerable proportion of the administration of civil justice is actually intrusted to them; and the mode in which they have very generally discharged their duties encourages their still further employment. Referring to the testimony which has been borne in their favour by many of the authorities to whom they are subordinate, it is hardly too much to say, that in the districts where, comparatively speaking, the inhabitants enjoy the benefit of an efficient administration of civil justice, it is ascribable in a very extensive degree to the instrumentality of those officers. The sudder ameens especially are now generally men of experience and legal learning. They are assimilated in religion, manners, habits and customs, with the people, and they are generally regarded with respect and confidence, both by Europeans and natives. The moonsiffs, when proper persons have been selected, are likewise found to be extremely serviceable, and are peculiarly well fitted, from the local position which they occupy, not only to render justice more easily accessible to the great body of the people, but to execute a variety of duties assigned to them in the interior of the districts, by the superior tribunals. In order, however, to render them still more efficient, they should now be placed on a higher footing in respect to emolument. If the natives are put into offices of trust and confidence, "We are bound," say the honourable Court in their Despatch of the 23d July 1824, "to grant them adequate allowances; and unless we do, we have no right to expect that they will distinguish themselves by integrity and ability, in the discharge of the duties required from them." With our past experience, moreover, we have, I think, every reason to believe, that if the moonsiffs, as well as the sudder ameens, meet with liberal and due encouragement, the agency of both may be safely employed to a much greater extent than it is at present, in the administration of civil justice; and that, in course of time, they may, as suggested by the honourable Court, be made available for disposing, in the first instance, of all suits now cognizable by the civil courts. The points, therefore, for immediate decision are, first, the extent to which their powers may be enlarged, without occasioning the evils arising from too sudden and violent change in the established system; and, second, what other modifications will be necessary, in order to adapt the system to such an alteration.

In the Despatch from the honourable Court, dated the 23d of July 1828, it is stated as their opinion, that the Regulations should authorize the appointment of sudder ameens of a superior class, whose jurisdiction might generally correspond with that now belonging to registers, with special powers; that is to say, they should be allowed to decide all original suits to the value of 5,000 rupees, and appeals from sudder ameens of an inferior class. "When we consider the extent to which these officers are now trusted, and, as we understand, very deservedly trusted; when we advert to the securities which are provided for the due performance of their duties, and to the opinion you have expressed as to the expediency of enlarging their powers, we cannot but think that in order to prevent the great evil of delay of justice, the measure we have suggested might with perfect propriety be resorted to."

Adverting therefore to the very heavy arrears which appear from the reports of the Sudder Dewanny Adawlut to be outstanding in all the courts, and to our inability, with reference to the demands of other branches of the service and to the state of the finances, to employ for the purpose of reducing them a sufficient number of covenanted servants, it is obviously expedient and proper to adopt the suggestions above referred to, and by placing the system of native agency on an extensive and respectable footing, to endeavour to obtain for the Judicial branch of the administration a greater degree of real and permanent efficiency than has hitherto at any period belonged to it. It has been suggested, that the powers of the sudder ameens should be increased to a still greater extent; but I ascribe

much

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(1.) Minute of Mr. *B. Bayley*, 5 Nov. 1829.

much of the success which has attended our progress hitherto in the amelioration of the native institutions to the slowness and caution which have marked the several steps of our advance; and it appears to me, that the character and popularity of the present scheme might be hazarded, by an innovation which should suddenly elevate the native judge to the exercise of the full extent of jurisdiction heretofore possessed by the European functionary alone. The number of original suits too, for an amount exceeding 5,000 rupees, is not so considerable as to be likely to embarrass the courts. By multiplying the number and enlarging the powers of the native judicial functionaries in the mode above suggested, much of the delay in the decision of suits, from which serious inconvenience is now experienced, will be put an end to; and by placing them on a respectable footing in point of emolument, the general character of these establishments will be improved. Such an arrangement, moreover, will serve to attach to us that influential class of natives who are most eminent for education and talents. We have done, I hope, something for the middling and lower orders; wealth is more generally diffused than heretofore, and protection is, to a considerable extent, afforded to every man in the enjoyment of the profits of his own industry. It is the higher classes who have suffered most, and on every account it is very desirable to conciliate them. Nor would the native community, in general, be otherwise than well affected towards the arrangement. It is probable that, viewing the Europeans as the source of all power and emolument, and deeply impressed with their moral superiority, they would at first be better pleased that the administration of justice should remain entirely in their hands; yet when they find from the change that the inferior courts are well looked after, and that while all reasonable precautions have been taken to secure the integrity of the judges, the judicial business of the country is more speedily performed, it may be expected that they will perceive the full advantages of having their cases investigated by persons more familiar with their language and customs than foreigners can ever become, and that the new arrangement will grow in popularity with all classes. It is therefore proposed, 1st. That the moonsiffs be empowered to decide suits for money and other personal property to the amount of 300 rupees, without any restriction as to the period within which the cause of action has arisen, beyond what at present is imposed by the Regulations on the institution of such suits in the civil courts at large; and that they be remunerated for their trouble to the extent of 100 rupees per mensem, from the fees leviable under the rules in force on the suits decided by them; compensation being made by Government as far as 50, when these fees fall short of that sum: provided the deficiency be not attributable to their own neglect. 2d. That the present sudder ameens be empowered to decide, generally, all original cases referred to them to the extent of 1,000 rupees, as well as appeals from moonsiffs, on a monthly salary of 200 rupees, including establishment and contingencies, with an increase of 50 rupees for such as hold the office of moulvee or pundit. And 3dly. That a superior class of sudder ameens be entertained, for the trial and decision of civil suits between 1,000 and 5,000 rupees, with powers to determine likewise appeals from such decisions of the second class of sudder ameens and moonsiffs as may be referred to them for that purpose. They should be selected from the law officers of the provincial courts, or from such of the individuals of whatever class or religious persuasion now holding or eligible to hold the office of sudder ameen under the rules at present in force, as may in the opinion of Government, on the joint report of the local commissioner and judge, be deemed qualified for the purpose; and should receive a monthly allowance, including establishment and contingencies, of not less than 500 Sonat rupees. This allowance is as low as can be reasonably fixed, with reference to the duties to be discharged; if lower, it may justly be imputed to us that we have not taken proper precautions to secure their good conduct; nor will the individuals employed, unless raised as it were above temptation, acquire as a body (whatever may be the merits of particular individuals) the confidence of the community. A trifling increase is proposed in the pay of the ordinary sudder ameens, who, as they are to be trusted to a greater extent than formerly, will consider themselves entitled to some remuneration. As to the moonsiffs, it is necessary to place them on a more respectable footing, but with the increase of powers which are to be vested in them; the institution fee will generally remunerate them: and it may, I think, be assumed that whatever expense Government may be put to by indemnifying those who are unable to earn so much as 50 rupees per mensem, will be more than repaid by the saving which will accrue from restricting the maximum allowance to 100. Care should of course be taken in every district to proportion the number of these officers to the state of business, and if this be properly done, the necessity of affording them any indemnification at all ought to arise but seldom. This arrangement will provide for the disposal, through native agency, of the whole of the original suits regularly cognizable by the zillah and city courts up to 5,000 rupees. The appeals from the moonsiffs will be referrible to the ordinary sudder ameens, and appeals from the ordinary sudder ameens in like manner referrible to the principal sudder ameens, with a special appeal, in both cases, to the zillah or city judge; the latter will be at liberty, of course, to retain on his own file any suits he may think proper, to recall cases referred to those authorities whenever there may be sufficient grounds for so doing, or to transfer suits from one moonsiff or sudder ameen to another; and it will be also peculiarly his duty to superintend and regulate their proceedings, reporting through the Sudder Dewanny Adawlut periodically the degree of estimation in which they are held, and whether their conduct be such as to deserve or not the approbation of Government. For these purposes, it will be necessary to relieve the judges in question (especially as they will no longer have the assistance of the registers) from part of their present miscellaneous duties, and this, together with other considerations, suggests

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suggests the abolition of the summary jurisdiction with which they are now invested in matters of rent, by transferring it altogether to the collectors. Summary process cannot, without inconvenience, be entirely dispensed with; but there seems to be no good reason, especially since all suits of this description are, under the provisions of Regulation XIV. 1824, referred to and decided by the collector, for requiring that they should be instituted before the judge. They clog the files of the courts, and serve greatly to increase the miscellaneous business, while with the decision of them the courts have nothing to do. Were these suits to begin and end with the collector, it would probably tend greatly to diminish this description of litigation, inasmuch as the imposition of an unjust demand on the one hand, or the evasion of a just one on the other, being more easily detected at first sight by the Revenue authorities than by the Judicial, from the greater familiarity of the former with revenue accounts, such claims would be less frequently brought forward. The judge, however, might be empowered to direct by a precept, containing his reasons for exercising such a power, that the collector transmit any depending cause of the above description for decision before himself. The decisions of the collector should of course, as at present, be open to revision by the zillah and city judges, on the institution of a regular suit; but the parties should still retain the option of instituting a regular suit in the first instance in any court, instead of having recourse to summary process, as already sanctioned by Section iv. Regulation II. 1821. That course, if rightly understood and promptly enforced, would perhaps be the most convenient for all parties. The smallness of the amount in most cases at issue, and the great distance at which the parties frequently reside from the sudder station, occasion great inconvenience to the agricultural community, and render it desirable that the means of adjusting Revenue suits should be brought home to their own doors. But as this is not always practicable, (although I trust it might be greatly promoted by placing the office of moonsiff on a better footing,) and as the power of imprisoning defaulters cannot be safely withdrawn, the option of having recourse to summary process in the first instance must be reserved; but it should, for the reasons above stated, be vested solely in the collectors. There are some miscellaneous duties, such as signing the processes of sudder ameens, and other matters of form, from which I should propose to relieve the judges, and which may subsequently be adverted to, should the present outline be approved by the Board. The next point to be considered refers to the provincial courts. It is proposed that they should be dissolved; and it will be necessary, in order to accelerate that object, to put a stop to the institution before them of new claims of whatever description; for even supposing that the original jurisdiction with which they are invested were transferred to the zillah and city judges, still the regular and special appeals from the latter, superadded to the mass of miscellaneous business with which the courts in question for the most part are overloaded, would postpone the dissolution of several of these establishments to a remote period. Besides, it is desirable, as they are not to be permanent, that they should be altogether excluded from the new arrangement, which, to prevent further change, should be made wholly independent of them. Under these circumstances, and with reference to the expense with which they are attended, it would be better to get rid of them as soon as possible; and for that purpose provision must be made for the exercise of the appellate jurisdiction with which they are invested. This jurisdiction must necessarily be transferred to the Sudder Dewanny Adawlut, but that tribunal is already so much encumbered with arrears, that it can go on no longer without an additional number of judges; and if (as will probably be the case) the new arrangements, both Revenue and Judicial, are attended with an increase of business, those arrears must increase in proportion, notwithstanding such addition. Moreover, however effectual the control of the Sudder Dewanny Adawlut at the Presidency may prove, without the intervention of the provincial courts over the local judicial authorities within the limits of Bengal and Behar, it cannot, in my opinion, be exercised with due effect at remoter stations; and insulated as these authorities are now become, the immediate superintendence of a tribunal of the highest class seems to be indispensably necessary; many of the arguments therefore before advanced in favour of a separate sudder for the Upper Provinces, will have acquired additional force by the new arrangements. The expense, which in fact is the only obstacle that has prevented the Court of Directors from giving it their express sanction, will now be merely nominal. Unless a new sudder be established in the Upper Provinces, or several new judges added to the old one in Calcutta, the provincial courts must be kept up, which would in the end be attended with a much heavier cost, and is otherwise, as has been already stated, undesirable. To augment the numerical strength of the present sudder court would not produce a corresponding increase of efficiency, and the control of the judges over the remote districts of the Western provinces would be exceedingly imperfect and highly unsatisfactory. The recent measure, by which individual commissioners have been substituted for a succession of judges of circuit, or a collective court of circuit, will require more close and active superintendence over the subordinate tribunals, than could be exercised by the Nizamut Adawlut at the Presidency. Under the former arrangement, the defects or omissions of one judge of circuit were in some degree neutralized or amended by his colleagues; while it is one of the disadvantages of the new system, that any deficiency in a commissioner cannot be so readily corrected. A superior tribunal of the highest rank, within reach of the petitions of the people, appears to me to be the only mode of supplying that control over the commissioners which ought to be exercised, with whatever caution they may be selected. In the Criminal department, therefore, the erection of a separate Court of Nizamut Adawlut for the Western provinces, appears almost a necessary part of the recent arrangements; and in the administration of civil justice, the superiority of a stationary court, invested with full powers over ambulatory

ambulatory judges exercising limited authority, need hardly be dwelt upon here. The perpetual fluctuation of judges in the court of appeal by the return of the periodical circuits, materially interfered with a regular application to civil business, and almost inevitably threw much power into the hands of the native officers; while the restricted nature of their authority encouraged the local judges frequently to dispute their injunctions, to the great interruption of the more important business, both of these courts and of that of the Sudder Dewanny Adawlut, to whom a reference was necessary.

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(1.) Minute of Mr. *B. Bayley*, 5 Nov. 1829.

The present allowances of the judges of the provincial courts amount to nearly six lacs of Sonat rupees annually; and if there be added to this the expense of a sixth sudder judge, which, according to Mr. Secretary Shakespear's Note, and the Minute of Mr. Ross therein referred to, is immediately necessary for the relief of that court, the aggregate amount may be estimated at 6,50,000. A separate sudder, consisting of three judges, a register and an assistant, would not cost per annum more than 2,20,000, so that the annual expense attending the adoption of this measure, so strongly advocated by many of the ablest and most experienced public officers, will eventually be less by 4,30,000 per annum than what must otherwise be incurred to place the existing establishment in a state even of doubtful efficiency.

By relieving, too, the Calcutta sudder of the business connected with the Western provinces, a saving of one or two judges may be anticipated, as soon as the present arrears are reduced. There remains only to refer to the office of magistrate. It will of course continue united to that of judge, where the civil business of the district is so light as to admit of it. This can be the case but seldom; still it is proper, with reference to existing opinions, that the trial should be made in all practicable cases. The high state of efficiency which the police has at length attained, compared with what it was 20 years ago, and the security both of person and property resulting therefrom, throughout the whole of the extensive country subject to this Presidency, is perhaps the greatest blessing which its inhabitants yet enjoy under the British Government. It was attained by the sacrifice of the administration of civil justice; and the inability of an individual holding the office of magistrate to discharge with effect the duties of judge, has already, with the sanction of the Court of Directors, led in some instances to those offices being intrusted to separate persons. By several late regulations, the criminal powers of the magistrates have been greatly increased, and their duties augmented; and it may be justly doubted whether, in many districts, the heavy duties of the collector could be superadded thereto, without imminent danger to the public interests. In those provinces where the detailed settlement absorbs, and in the opinion of the best informed persons will continue for very many years to absorb, the attention of the collectors, and where they are in future, by a recent enactment, to undertake the investigation of almost every question which can arise relative to rights and interests connected with landed property, it is difficult to contemplate the conjunction of the two offices in the same individual, without entertaining serious apprehensions that, as heretofore, one or other department must suffer in the union. It is most important, therefore, that separate magistrates should be appointed wherever practicable; and the abolition of the office of register will admit of its being done to a considerable extent, without incurring an extra expense for that purpose. It is to the office of collector that we must principally look, to have our young servants trained to the administration of civil justice; and considering that the largest, most important, and most complex branch of civil controversies immediately relates to land, I entertain a hope that in this particular there will be no material deterioration. The arrangements above proposed will, it is expected, be attended not only with no additional expense, but will expedite the administration of justice, and prove in other respects of solid advantage to the country. The following schedule exhibits, in a concise point of view, the nature and extent of the alterations which will be effected thereby in the present system:

JUDICIAL ESTABLISHMENT.

Present System.	Proposed System.
1. *Moonsiffs*: Empowered to receive, try and determine suits preferred to them for money and other personal property, not exceeding 150 sicca rupees, provided the cause of action shall have arisen within the period of three years previously to the institution of the suit.	Powers extended to 300 rupees, without any restriction in regard to the limitation of time beyond what is contained in the Regulations with reference to suits generally.
2. *Sudder Ameens*: Authorized to determine original suits referred to them to the extent of 500, and specially, 1,000; and to hear appeals from the decisions of the moonsiffs.	Powers extended to 1,000 rupees generally, and appeals from the moonsiffs, as before.
3. *Registers*: Empowered to determine suits up to 500 rupees, and specially, to any extent, referred from the judge's file; as well as appeals from the moonsiffs and sudder ameens.	Office of register discontinued, and special sudder ameens established for determining suits from 1,000 rupees to 5,000, and appeals from the ordinary sudder ameens.
4. *Zillah and City Judges*: Empowered to determine suits to the amount or value of 10,000	Original jurisdiction restricted generally to suits, the amount of which is not less than

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10,000 rupees, and regular and special appeals from the register and native functionaries.

5. *Provincial Courts*: With original jurisdiction in all cases preferred to them above the value of 5,000 rupees, and appeals, regular and special, from the zillah and city judges and sudder ameens.

6. *Court of Sudder Dewanny and Nizamut Adawlut*: Consisting of five judges, a register, deputy, &c.

than 5,000; and to the cognizance of appeals from the native judicial functionaries; jurisdiction in summary suits for rent transferred entirely to the collector.

Provincial courts to be abolished, so soon as they shall have completed the business now depending before them.

Two sudder courts, one for the Lower Provinces, on the same establishment as before, and the other for the Western Provinces, to consist of three judges, one register, assistant, &c.

November 5th, 1829.

(signed) *W. B. Bayley.*

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(2) Minutes of the Judges of the Sudder Adawlut.

(2.)—MINUTES of the JUDGES of the SUDDER ADAWLUT, in reference to Mr. *Bayley*'s Minute.

Mr. *Leycester*'s MINUTE.

1. THE important objects contemplated in the plan proposed by the Minute of Mr. Bayley are,—1st, To secure a prompt and efficient administration of civil justice. 2dly, To give suitable employment to the higher classes of natives and those most eminent for education and talents, under proper precautions for their good conduct; and finally, so to give effect to those measures that a considerable saving shall result to the state.

2. The plan suggested is argued as necessary, in consequence of the defective system established by Lord Cornwallis, and has as its avowed basis the several changes which have taken place in our system during the last nine years, and more particularly the last great change effected by Regulation I. of 1829.

3. I have been so long accustomed to hold in reverence the name of Cornwallis, that I cannot willingly withdraw my admiration of many of the wise and sound measures adopted by that statesman; and I reckon his system for the administration of justice as the foremost in the first rank. But let not Lord Cornwallis be condemned, or appear to be so, for that which he never attempted. He was far too sagacious to suppose it possible that in the then nearly disorganized state of the country, a system could be devised while all was changing about it—poverty turned to riches, wastes and barren fields to gardens, deserts to populous places—which should alone stand still, should be created perfect, and remain perfect, unimpaired by age, and needing no new adaptations to suit the changes that were to come.

4. The existing system of justice is in all essentials the same as that established by Lord Cornwallis, and it has only been deteriorated by mutilations made, not by time but by man. It is in praise of that system, and not in its condemnation, that it was capable of uniting with the modifications which experience had shown to be desirable. The foundations and the frame-work remained still the same, and it is only on those foundations and within that frame-work that it can be safe to work; and if the hand of man has effected some ravage on the system, I heartily pray for its restoration in all its fulness and all its beauty.

5. Many of the propositions by Mr. Bayley are perfectly consistent with the old system: the 40th Regulation of 1793 provided native functionaries in the administration of justice. The present plan regarding sudder ameens does no more; it only extends the sphere of their power, and on that point a dissenting voice will probably not be found in India; it is only where a structure is proposed to be raised on shifting and uncertain foundations that doubts will arise. I will proceed to examine the proposed changes in detail, and first of that which I most object to, the abolition of the provincial courts; and if this measure can really be considered a necessary part of the recent arrangements, I find an added and a far stronger cause for lamenting their adoption; while unconsulted, I held it a duty to be silent, but now duty prescribes a contrary course.

6. I do not see any reason assigned for the abolition of the provincial courts. It clearly is not from the absence of business to perform; the contrary indeed is avowed. By whom then is it to be done? It is proposed to be done by a court called a second Sudder Adawlut for Benares and the ceded and conquered provinces, to consist of three judges.

7. There is one thing I hold to be impossible, and another to be very near it. The one to do more work with fewer hands, the other to do it equally well at less expense. Here then will be one court of three judges superseding two courts, one of three judges, the other with two. How one court is to do more than two, I cannot devise; that however is for the Upper Provinces.

8. But for the Lower Provinces, the work of the four provincial courts of Patna, Moorshedabad, Dacca and Calcutta, is to be transferred to this court, with the anticipation, too, that fewer judges may hereafter be sufficient for this court.

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9. Is it possible to expect that this can succeed? The mere statement of the position seems sufficient for the answer; but the chief boon desired is the expedition of justice; and can it possibly be for a moment concealed, that the more business is done in the lower courts, the more must come to the higher? In fact, the present proposed plan would be no more likely to be lasting without further changes engrafted on it than that of 1793, and though the courts of appeal be left, it is quite easy to foresee that those courts and the zillah judges will gradually be as much burthened with appeals and other business as they are now.

10. I deem it then impossible that the courts of appeal can be abolished without seriously impeding the course of justice; a second sudder has always been deemed by me objectionable as a thing out of nature, as impossible to dissuade the people but that there must be a court of last resort at the seat of government, an essential requisite, in my judgment. I consider it impossible that a sudder court stationed in the interior can be looked up to with that confidence and respect by the European or the native public, or by the Government, which is essential to its well doing, and that the same sources of intelligence can never be within their reach: feelings of this nature were understood to have occasioned the suppression of the Boards of Revenue in the interior not long ago.

11. On the subject of the moonsiffs and sudder ameens, I fully agree in the principles of Mr. Bayley's Minute. I consider, however, that there are two very important points to be laid down. 1st. That the salaries be fixed. 2d. That the officers on the establishment and their allowances be fixed also, and controlled as to appointment and removal by the zillah judges, under the rules in force for the control by the provincial courts over the establishments of the judges and magistrates; that the moonsiffs and sudder ameens be prohibited acting through other agency, and that the officers of those establishments should be liable for malversation as all other officers.

12. I would give the moonsiffs a fixed salary of 300 rupees, and give them cognizance of suits to the amount of 500 rupees. I would give them cognizance of all suits for arrears of rent up to that amount, and I would have these heard and tried as regular suits, giving them a precedence in the hearing of them over other suits, and rendering the decisions in such cases open to appeal. There can be no use in a summary suit open to a regular suit. It is a mere play of words, or not perhaps so innocuous; it leads to misconception, the one and the other being necessarily decided on the same grounds. I would declare generally, that in all common cases, vacancies among the sudder ameens should be filled by selection from the moonsiffs.

13. I would have no secondary class of sudder ameens, I can see no good in it, and it would give rise to bickerings, jealousies and intrigues, and might often be unjust. I would give them 500 rupees a month, with jurisdiction as proposed up to 5,000 rupees, and cognizance of claims for arrears of rent from above 500 rupees to 5,000 rupees, and regulate their establishments as the moonsiffs. I would not give them larger jurisdiction at present. Hereafter having seen our way well, particular merit may be rewarded with enlarged powers and increased allowances.

14. I would disallow Mahomedan and Hindoo law-officers to the zillahs, attaching two of the former to the circuit and one of the latter to the appeal court, appointing the others to be sudder ameens; and the sudder ameens should sign their own processes, use a public seal, and no witness should be examined excepting in their presence.

15. I would not allow the judge, as it would defeat the object of the measure, to retain any suit on his own file, nor to recall it after reference; but I would allow the transfer from one moonsiff to another or to a sudder ameen, or from one sudder ameen to another on sufficient ground shown to, and previous permission obtained from, the Sudder Dewanny Adawlut. But I would allow no report of conduct to the Sudder Dewanny Adawlut or to Government, as to the merit of individuals or their comparative estimation among the people. It is a sufficient security when no blame is imputable, and the necessity of such periodical reports would impose an invidious task, liable to abuse and prejudice, and, as being secret, most objectionable.

16. The intention is to provide a sufficient number of moonsiffs and sudder ameens to do the duty assigned them, to answer the demand of the people on our Judicial establishments in a reasonable period. I would consequently add a new moonsiff or new sudder ameen whenever there were ten cases of longer standing than eighteen months. This would equally act as a stimulus to exertion, as a remedy to the people against denials of justice through delays.

17. The objects of the proposed rules are of too great magnitude to the people and of too paramount a duty to the state, to allow of its being made a revenue question; but it is still obvious to remark, that the institution fees, the value of stamp paper used, will go to defray or to diminish, and in fact to reduce to nothing the amount of expenditure as compared with the object in view. At the same time I cannot say that the system of precautionary control would be much: a man's sight and discernment is limited. The real control must be sought among the people themselves, and their appeals or remonstrances will be found to form the only efficient controls, and if an error, I acknowledge it, that I do not think the decision of these officers will ever be more satisfactory to the people as having been passed by persons of their own habits nearly, for I believe them to have far too much penetration not to be able satisfactorily to appreciate the public functionaries to whom they have been accustomed.

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18. I would again strongly urge the abolition of Regulation XV. of 1824, as not answering its object, as incapable of answering its object, as spreading far and wide a system of oppression and chicanery never known before. In fact, Regulation XV. of 1824 holds out strong inducements to infringe the peace, for it is only through an affray or indication of it that a man can get his case before a magistrate, and though he may have had no possession for 50 years, a bribed report from a thannah and a few tutored witnesses will give him a very tolerable chance of ousting the rightful owner, who is taken off, his guard and destitute of his defences, by a summary proceeding in a criminal court.

19. This power is not at all useful or necessary to keep the peace, or even if it were, it would be paid for at far too high a price; all experience of the effect of that Regulation points out the necessity of its abolition, and the revival of the rules superseded by it.

20. I do not clearly perceive where Mr. Bayley would propose that actions to an amount above 5,000 rupees should lie; but if the provincial courts are retained, they will as heretofore belong to that court, and the probable, nay certain, increase of business being admitted, I do not see how the provincial courts can be dispensed with; I consider their abolition as likely to impede and paralyse the whole system. There is a great deal done in those courts which cannot be left undone consistent with a common regard for justice, but which ought not to be suffered to embarrass the higher tribunal.

21. It is admitted by Mr. Bayley to be undesirable that any extensive change in the course of civil justice should take place, until the new scheme for the superintendence of revenue business and of criminal justice should have been fairly introduced and carried into practical operation; a system which is also admitted to be divested of the power which the former courts of circuit possessed, of correcting their own errors and defects.

22. I perceive no symptom of the successful developement of that system, on which to ground any further changes in the country. No criterion has yet been established, to define what cases now pending in the courts of the Upper Provinces are to be transferred to the commissioners under Clause 2. Section x. Regulation I. of 1829; a definition which is equally necessary to prevent the institution of new suits of questionable cognizance.

23. The new system in several branches has not, I apprehend, commenced its operation. The rules of Regulation I. of 1821 and I. of 1823, are extended to all the ceded and conquered provinces under the Section above quoted, and their operation expanded over a further period of nineteen years, or to the 1st March 1829.

24. The Government in 1821 urged for the upholding of that Regulation, the great and extensive injury which had been done during the two first triennial settlements, by forced permutations of property, through the unjust and iniquitous practices by which public sales and transfers were procured, and the almost unbounded influence of the tehsildars, and the perversion of that influence for the purposes of personal aggrandizement, and they fixed the limit of those sales up to 1217 Fusly. The rules were established as an exception, and bore only on a particular period and applicable only to particular districts, at the discretion of Government.

25. On this Regulation, the late Mr. Dorin made the following remarks: "Viewed as a judicial regulation, and constituting a commission vested with judicial powers, it seems to be at variance with every established principle with which I am acquainted. The general tone of it appears to cast a slur on the established courts and their constitution and proceedings, which, making every due allowance for their defects, or rather for the defects of those who occasionally preside in them, they do not seem to me to merit. But the grand objection is, that the Regulation must unavoidably do away all confidence on the part of the natives in the stability of our laws, and of the tenures by which property has hitherto been held under the sanction of decrees of the courts. If it goes on in Cawnpore (where by the by it was shortly after shown that no public sale had taken place while the supposed arch-malefactor Nasir Ally was in office), the inhabitants of other districts will also expect that it shall be extended to them, and the whole property of the country will be thrown into confusion. The almost unlimited discretion given to the commissioners is quite at variance with my ideas as a judicial officer of the Government; and though I have been myself selected as a sudder commissioner, and cannot be otherwise than personally gratified by the confidence placed in me, I must still observe, that I think the constitution of the office as dangerous and difficult, that every thing being left to discretion, with no land-marks for a guide, there is no security that even with good intentions caprice shall be excluded."

26. Now, however, what were then exceptions, are made the general rules applicable all over the ceded and conquered provinces, up to the 1st March last, and the duty intrusted to the revenue officers. So that almost every decree passed regarding land for the last nineteen years, and every public sale, and every private transfer, are liable to be reversed.

27. The strong grounds assumed for enacting Regulation I. of 1821, are not even said to exist.

28. This is a part of the authority of the commissioners, which, as yet, I suppose has not been brought into operation, but which will be brought into action in time.

29. Of the motives and grounds of this extension I have not heard, but I cannot conceive why they should apply to the Upper Provinces and not to the Lower; why public purchasers, private bargainers, and holders of decrees, are exposed to the hazard of losing their property at Illahabad, and secured from losing it at Moorshedabad.

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30. One effect has arisen from the new system, which, I fear, is inseparable from it, the creation of dissensions and violent discussions between the commissioners and the magistrates. One man does not much like to be controlled by one other man. He thinks he may be right and the other wrong, and there is no plurality of voices against him, which might induce his acquiescence. The magistrate, of course, must obey; but where any thing like blame is attached to him, or where he thinks the commissioner not upheld in law, he of course cannot be expected to be silent. Hence from these conflicting elements, storms and rebellions arise little known before. Neither can it be expected that the magistrates or the public will have the same deference and respect for an individual as they had for a body, among whom, by collisions of opinion, by discussion and consultation with each other, many errors were necessarily avoided.

31. Another trust, too, vested in the commissioners, has not yet probably been much brought into operation, the powers they possess as superintendents of police, to commit for trial, and use all the authority of the magistrates: in the former, contrary to express law, he would have to try his own commitments, or some other officer must be appointed; and in the latter, he would remove the supervision and control, deemed necessary safeguards for the people.

32. I rejoice to observe, that Mr. Bayley is adverse to the union of the magisterial powers with those of a collector. It is out of human nature that, while acting in one capacity, he should forget the interest he takes in his other character. As collector, he has often to appeal to the magistrate, and it involves a confusion of ideas, from which nothing but confusion can proceed, that a man should appeal in his own favour to himself. This is liable to happen too when he is acting in a matter merely *meum et tuum* as a local agent; as such, he thinks a forgery to have been perpetrated to defraud some vested rights intrusted to his guardianship as local agent, and he sends the supposed offenders to his other self, to the magistrate: being unable to differ from himself in his other capacity, he commits, and unable to divest himself of the weakness and prejudices common to our nature, he holds the accused as convicted, and refusing bail, imprisons in irons the accused delinquent; or the offence being of minor criminality, he punishes.

33. The same feeling is liable to operate in a thousand ways; in frauds on the stamp-office, evasions of Alkarry duties, in which it would be unwise in the legislature, and unsafe to the public, to allow the coalition of the accuser and the accused.

34. Neither do I think that we have seen sufficiently into the *modus operandi* of a system uniting certain judicial powers in the hands of the revenue commissioners, holding also criminal jurisdiction. All arguments, all reason, all experience, are adverse to it. We are reverting to schemes abandoned over and over again as untenable; and the question is, whether in adopting the rejected, we are not merely paving the way to its recurring fall, and keeping the people in doubt, uncertainty, and consequent distress.

35. As connected with circuit duties, I have only known one case involving the question, in which, without desiring to impute blame, or questioning in any way the purity of intention, I still think that no circuit judge of the good old school would have passed sentence against the accused.

36. The adding of criminal powers to the previous union of revenue authority, and the cognizance of all or almost all judicial matters, in which the rights and interests of the Government are involved, was obviously making more questionable what was quite sufficiently so without it. The union of all these powers, and without any appeal to a regular judicial court, forms a state of things unknown to the world, excepting, of course, in those misgoverned countries where despotic rule is claimed, and where the fiat of power stands instead of all inquiries, all appeal and all judgments.

37. It seems to be quite impossible that the commissioner and collectors trying suits and matters, as between the Government and the people, should go to work without any feeling wholly unprejudiced. The trials are to be originated by themselves, and they are not sworn to give an impartial judgment, without fear of censure and without hope of favour. That which a man has bantled, fostered and protected, cannot weigh equal in his mind with the disowned, against which he has been struggling. It is impossible then to expect, with every desire to be just, that the decisions should come up to the standard of justice, or that the public should feel confidence in their impartiality, an ingredient most important in the consideration.

38. I never can do otherwise than lament any departure from the principles which influenced the sentiments promulgated in the preamble of Regulation II. of 1793, and in various other places, that "Proprietors can never consider the privileges which have been conferred on them as secure, while the revenue officers are intrusted with judicial powers; and that all financial claims of the public must be subjected to the cognizance of courts of judicature, superintended by judges, who, from their official situation and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially, so that no power may exist in the country by which the rights vested in the landholders can be infringed, or the value of landed property affected." And I look to those principles as to the only solid foundation on which the content, the attachment, and affection of the people can be grounded, as the only one effectual to secure their rights, properties and possessions.

39. I deprecate the idea of having said any thing with the mere view of finding fault. That which I feel honestly I have expressed openly.

(signed) *W. Leycester*

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Mr. *Ross's* Minute.

*Mr. Bayley's Minute, proposing a Plan for the Improvement of the Administration of Civil Justice.

Mr. Bayley truly says,* that the inadequacy of the machinery employed "to accomplish the work to be performed," is the great defect of the present Judicial system in the provinces under this Presidency; and he points out that a recourse to native agency is the only means by which that defect can be remedied. Every one, I presume, will agree with him "that the expectation of being able to carry on the administration of justice, civil and criminal, by Europeans, *is utterly fallacious*; that no addition of numerical strength to the European portion of the judicial establishments, which the public finances can at present afford, will do more than yield a partial or temporary relief, and that we must necessarily look to the still more extended employment of natives (subject to European superintendence) if we desire to secure a *moderately* prompt and efficient administration of civil justice."

2. Mr. Bayley has likewise recorded his testimony to the capability of the natives to discharge the judicial functions in the following terms: "It is not too much to say, that in the districts where, comparatively speaking, the inhabitants enjoy the benefit of an efficient administration of justice, it is ascribable, in a very extensive degree, to the instrumentality of those officers," (the sudder ameens and moonsiffs.) "The sudder ameens especially are now generally men of experience and legal learning; they are assimilated in religion, manners, habits and customs with the people, and they are generally regarded with respect and confidence both by Europeans and natives."

3. This testimony from one so well qualified to form a judgment on the subject will, I hope, be considered by the Government entitled to greater weight than the opinion of those who, looking only to what has been the conduct of the moonsiffs under a system which has employed men of low character in that capacity without salary, and without check in the exercise of the powers given to them, think the administration of justice cannot be improved by means of native agency under any system. Against this opinion there is the testimony of many others besides that of Mr. Bayley; but if there were nothing else to oppose to it, this consideration would be sufficient, that, taking the native character to be as low as it can be and incapable of amendment, even on that illiberal and unfounded supposition, a great improvement in the administration of justice by natives could not fail to result, merely from attaching adequate salaries to the offices of trust committed to them; it being obvious, that a bribe which might be sufficient to induce the commission of a corrupt act by a functionary of the low moral character, supposed holding an office of little value, would not be sufficient to induce the same functionary to commit the same act in an office of greater value. In the one case, the value risked, and of course the premium required to cover the risk, would be greater than in the other, and doubtless both the value and the risk might be so raised, that in the majority of suits the premium required to cover the latter would be greater than suitors could afford to pay.

4. Clearly as Mr. Bayley has pointed out the defect of the existing system, and highly as he values the means at command for its amendment, I cannot but think the plan of reform proposed by him much less satisfactory than might have been expected. It neither embraces the criminal branch of the system, nor that portion of the civil branch which is administered by the revenue functionaries, and in regard to the portion of the civil branch to which it is confined, the measures proposed are not, I conceive, calculated to produce the degree of amendment attainable.

5. The measures proposed are, 1st. An addition to the allowances of the moonsiffs and sudder ameens; 2d. An enlargement of the value for which suits may be taken cognizance of by those functionaries; 3d. The removal of the existing limit to the amount of suits cognizable by the European zillah judges; 4th. The dissolution of the provincial courts of appeal; and 5th. The establishment of a sudder court in the Western provinces.

6. The *first* of the above measures is indispensable, but the addition proposed to be made to the allowances both of the moonsiffs and sudder ameens is too small. It will increase but little the inducement they now have to discharge their duties faithfully, and consequently will not produce any material effect in raising the character of the native tribunals.

7. In regard to the *second* measure, it appears to me to be objectionable with reference both to the courts of moonsiffs and those of the sudder ameens. The limitation of the powers of the former to the trial of suits for money, or other personal property of small amount, is calculated to prevent those courts being as useful as they may be. If they can be rendered capable of deciding claims to personal property, they may be made capable also of deciding claims to real property; and as it is of importance to the prosperity of the community, that every possible facility should be afforded for obtaining a speedy adjustment of both descriptions of claims, no good reason seems to be assignable for not allowing the same facility to the adjustment of both. Much of the benefit derivable from the courts of the sudder ameens will likewise be lost by the proposed limitation of their powers to the trial of suits for an amount not exceeding 5,000 rupees.

8. The *third* measure proposed, namely, that of confining to the European zillah courts the cognizance of all original suits exceeding 5,000 rupees in amount, is even more objectionable than the foregoing. It will not only leave the parties in the causes exceeding the proposed limit subject to all the disadvantages and evils of imperfect investigation and dilatory decision, now experienced in the prosecution of original suits in the zillah courts, but by diminishing the time which the zillah judge will be able to give to the hearing of appeals, it must weaken his power of control over the proceedings and conduct of the native tribunals; a power which above all things it is necessary he should be enabled to exercise with effect.

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effect. It should not be forgotten, that the proportion of the suits under the limit of 5,000 rupees is at least $\frac{79}{80}$ths of the whole number instituted, and that to diminish the security for the right decision of this very great majority in order to ensure to the few what, if really an advantage, is but a very small one, cannot be just.* It should also be kept in mind, that the native tribunals (the consequence of having been left entirely free from check) are generally believed to be venal, and that therefore no plan of reform extending their jurisdiction can be expected to give satisfaction to the people, unless it secure not only the right of appealing to a European judge, but also the certainty of the appeal being promptly attended to and speedily decided.† It may further be observed, that the opinion of the moral superiority of the Europeans with which, as Mr. Bayley remarks, the native population are impressed, would be best preserved by the Europeans exercising only the powers of control, and being the authorities to whom all persons deeming themselves aggrieved by the errors or misconduct of the native functionaries, would look to for redress. There is nothing, I conceive, more likely to degrade the European judge in the opinion of the community than making him the ostensible author of the corruptions of a court, in which the principal part of the business to be done is committed to irresponsible native officers, as is the case in all the European courts of primary jurisdiction.

9. To the *fourth* measure proposed by Mr. Bayley, the dissolution of the provincial courts of appeal, I am aware of no objection that can be urged; the advantage of allowing an immediate appeal from the zillah courts to the tribunal of highest authority being obvious.‡

10. The *fifth* measure proposed, or that of establishing a Sudder Court in the Western provinces, I consider to be both objectionable and unnecessary, as the end in view may be attained not only better, but at a less expense, *by adding to the number of the judges of the Sudder Court at the Presidency.*

11. A sudder court can only perform the important functions of superintending and regulating the general administration of justice, by hearing appeals from the decision and orders of the local judicial officers, and revising their proceedings; consequently, the efficiency of its controlling authority must depend much more upon the time required to obtain its decision on an appeal or representation preferred to it, than on the actual distance of its position from the functionaries to be controlled. In this respect, therefore, the whole advantage which the inhabitants of the Western provinces could derive from the establishment of a court of final resort in those provinces would amount only to a few days' reduction of the time required to convey an appeal or petition to the present court in Calcutta. As to the argument that the measure would afford to petitioners in the Western provinces greater facility than they now have of personally attending the sudder court, it is sufficient to observe, that if the personal attendance of petitioners were necessary, or if it gave any advantage which was not otherwise obtainable, then justice could not be equally administered by a sudder court without placing it within the reach of every individual subject to its jurisdiction, which is impossible. That their distance from the sudder court in Calcutta is no material impediment to appeals from the Western provinces is proved by the fact, that more appeals in proportion to the number of decisions are received from those provinces than from the provinces of Bengal.

12. The advantage to be derived from the establishment of a second sudder being then so inconsiderable, the other mode of effecting the object in view, viz. *that of adding to the number of the judges in the sudder court at Calcutta,* should obviously be preferred. Besides the economy of this last-mentioned measure, it is recommended by two other considerations of importance: one is, that uniformity in the interpretation of the laws (which is essential to their beneficial operation) is more likely to be preserved by a single controlling tribunal than by two possessing equal authority; the other is, that the authority of a supreme controlling tribunal must be in proportion to the confidence felt by the people in its decisions, and that confidence must be greatest when the court is placed at the seat of the Government, where all its acts and proceedings are exposed to the observation of a far larger and more intelligent public than they would be in any other position within its jurisdiction. Of the value of the check upon the conduct and decisions of the court which such a position affords, the people are not insensible, and I am persuaded they would not regard a tribunal placed any where else as a sudder, or be satisfied with its decisions, however high its powers might be. In proof of this, I may mention the fact, that appeals are sometimes made to the sudder in Calcutta from the resident's court in the Delhi territory.

13. But besides the foregoing objections to the measures of reform proposed by Mr. Bayley, his plan is chargeable with the two defects I before adverted to. One of these defects is, that it does not provide for any amendment of the administration of the portion of civil justice which is intrusted to the revenue authorities: and yet that portion, Mr. Bayley

* Nor can it be politic, for upon the degree of security afforded to the inferior and most numerous classes, in the enjoyment of the fruits of their industry, must mainly depend the efficacy of the laws in promoting the prosperity of the community.

† This consideration also seems to forbid, for a time at least, the employment of the *native* sudder ameens to try appeals from the moonsiffs, as proposed by Mr. Bayley, even were not the union of appellate and primary jurisdiction in the same tribunal objectionable on other grounds.

‡ The decision of the tribunal of highest authority is clearly most likely to be right; and if an appeal may be preferred to that tribunal, and a decision obtained from it in nearly as short a time, and with as little expense as from the inferior intermediate court, the latter must surely be admitted to be useless.

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Mr. Bayley admits, comprises "the largest, most important, and most complex branch of civil controversies;" and, it may be added, its administration requires reform as much as that of the other portion.*

14. It is, I conceive, indispensable to the establishment of a judicial system calculated to give security and satisfaction to the people, and capable of progressively improving, that the Judicial and Revenue authorities should be separated, and the latter subjected to the control of the former; and that *the judicial office should be so raised and the possession of it so secured to those appointed to it*, as to hold out an inducement to men of ability to devote themselves to the acquisition of the learning and knowledge requisite to the due performance of the judicial functions. Such a system cannot be established while, to use the words of Mr. Bayley, "it is to the office of collector we must principally look to have our young servants trained to the administration of civil justice." A system administered by judges so trained cannot possibly improve, and Mr. Bayley does not venture to express in its favour more than a hope that it will not materially deteriorate.

15. The chief reason assigned by Mr. Bayley for not proposing any alteration of the conjoined Revenue and Judicial system is the expediency, *with a view to speedy decision*, of giving the cognizance of summary suits for rent to the collectors. This appears to me to be a very insufficient reason. The collectors have never yet speedily decided summary suits for rent, nor are their courts peculiarly adapted for the cognizance of such suits. On the contrary, they are less so than the courts of the zillah judges; the uncertainty of their position rendering them more difficult of access to the parties between whom disputes about rent arise. Moreover, a summary decision,† which, being a decision given upon a hasty and imperfect inquiry, must often be wrong, and often made the instrument of oppression, would not be necessary, were the courts of the moonsiffs placed on a respectable footing; since in those courts suits for rent could be brought to a termination after full investigation in one fourth of the time in which the same suits are now disposed of by the summary process in the courts of the collectors. As to the powers of arresting and imprisoning alleged defaulters on mesne process, which Mr. Bayley thinks should be vested solely in the hands of the collectors, I would observe, that it does not seem necessary that it should be vested in any hands; the power of distraining the personal property of defaulters and of imprisoning them after obtaining judgment for the arrear claimed, if not satisfied by the process of distraint, being amply sufficient to enable landholders to realize their rents with regularity.

16. The other defect of Mr. Bayley's plan to which I have adverted, is the omission to make any provision for amending the present system of administering criminal justice.

17. Mr. Bayley seems to think the extension, as far as may be practicable, of the measure already authorized and partially adopted of separating the office of magistrate from that of civil judge, is all that is required to be done in this department. But I beg to observe, that although it is quite true, as Mr. Bayley remarks, "that the state of efficiency which the police has at length attained, compared with what it was twenty years ago, and the security both to person and property resulting therefrom throughout the whole of the extensive country subject to this presidency, is perhaps the greatest blessing which its inhabitants enjoy under the British Government;" it is no less true, that the system which affords this protection from open violence and rapine, subjects the people to a degree of extortion and harassment which is grievously oppressive and loudly calls for remedy.

18. Having stated what appear to me to be serious objections to Mr. Bayley's plan for a reform of our Judicial system, I will now venture to suggest for consideration such measures as I conceive are calculated to obviate those objections.

19. I beg, however, it may be understood, that the measures I am about to suggest are recommended, not as likely to produce any great *immediate* advantage beyond a saving of revenue,‡ but chiefly as calculated to effect what in the present circumstances of the country is perhaps the utmost that can be immediately accomplished, namely, *the establishment of a system admitting of the possibility of a gradual advance to the degree of improvement which may be hoped to be attained.* I beg also to observe, that a separation of the Judicial powers from the Revenue functions being indispensable to the attainment of the object contemplated,

* I have heard it urged in favour of the existing system, that since 1808 an increase of more than 2½ crores of rupees of net revenue has been obtained from the permanently assessed provinces alone, exclusive of the increase derived from new acquisitions; but I would observe that this fact, although it may be a proof that the system has been ably superintended, does not afford an argument in favour of the system itself, but the contrary, for admitting that the increase stated has been justly obtained by means of the Revenue tribunals, it could have been obtained under the same superintendence by means of the ordinary courts of justice, had those courts been rendered efficient, without shaking, as has been done, the confidence of the people, either in the permanency of the settlement of the provinces referred to, or in the promise recorded by Government, to leave its own suits, as well as the suits of private individuals, to the decision of impartial judges.

† A summary suit, in the language of our Regulations, does not mean a suit tried by the shortest process of inquiry by which right decision may be attained. It means a suit decided without investigation of its merits, and which, because so decided, may be tried again, if the losing party can afford the expense of a second trial.

‡ The annual saving of revenue which they would produce would be nearly 37½ lacs of rupees, after allowing a large addition to the salaries of the judicial functionaries, proportionate to the importance of the duties intrusted to them. *See* annexed Schedule.

contemplated, and a revision of the establishments of all offices in which those powers and functions are united being necessary in order to effect their separation, my suggestions must extend to the Revenue as well as to the Judicial department of our administration. Further I beg to explain, that my suggestions will have reference only to the territories denominated the Lower and Western provinces, or those subject to the operation of the Bengal code of regulations, and in those provinces to the establishments in the Revenue department, which are maintained for the collection and assessment of the land revenue and the decision of suits relative to land, its produce and its liability to assessment, and to all the establishments in the Judicial department, maintained for the administration of both civil and criminal justice; the whole annual charge for these establishments being at present, as nearly as I can estimate, about one crore and fifty-five lacs of rupees.

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(2.) Minutes of the Judges of the Sudder Adawlut.

See annexed Schedule.

20. Having premised these explanations, I proceed to submit my suggestions, commencing with those relating to

THE REVENUE DEPARTMENT.

21. According to the plan which I am hereafter to submit for the administration of civil and criminal justice, it is proposed to divide the territories to which this Minute refers into 52 zillahs, each containing about a million of inhabitants, by which division the Lower provinces (including Cuttack) would comprise 37 zillahs, and the Western (including the districts specified in Regulations II. 1803 and VIII. 1805) 15 zillahs.

22. For the collection of the revenue in the territories above specified, I would propose that one collector should be appointed for every two zillahs, in the permanently settled part of the Lower provinces, and two for each zillah in Cuttack and the Western provinces; in other words, that two zillahs should form a collectorship in the permanently settled provinces, and one zillah two collectorships in the provinces not yet permanently settled; further I would propose, that the collectors appointed both in the Lower and the Western provinces should be divested of all judicial powers, and that those in the Western as well as those in the Lower should be relieved from the duty of making settlements.

23. The business of a collector being thus reduced to the realization of the public demand, assessed upon the mehals or estates comprised within his collectorship, a salary of Rs 1,000 per mensem would, I conceive, be sufficient to ensure the requisite qualifications for the office, and that salary, with about Rs 500 per mensem for an office establishment to each collector, would constitute the whole charge which it would be necessary to defray from the public treasury, for the collection of the land revenue.

24. In the Lower provinces, where an advertisement or notification of a public sale of the lands of defaulters generally ensures the recovery of the revenue due from them, no other item of charge than the above is now incurred, and in the Western provinces no other is, I conceive, really necessary; for although in these last mentioned provinces, where the zemindarry right being of little value, the realization of the revenue could not be ensured by merely advertising defaulting estates for sale, it could be effected by the process of attachment, of which the whole expense would fall upon the defaulters. In point of fact, in the provinces referred to, where disputes among the numerous putteedars or co-sharers possessing an interest in the estates, are the most frequent cause of arrears, attachment is the only process by which the public revenue can be secured, and if, when necessary to have recourse to it, it were judiciously carried into execution, by deputing an intelligent sezawal, with an efficient establishment at the season for reaping the crops, to levy the rents payable by the under tenants or ryots according to the conditions of their pottahs or tenures, and to realize the amount which might remain due after those rents were paid, together with the whole expense of the attachment from the crops of the putteedars, each putteedar being required to contribute to the discharge of the sum due in proportion to the quantity of land occupied and cultivated by him, I feel persuaded from experience, that the advertisement or notification of the collector's intention to attach, would operate with the same efficacy that the advertisement of a public sale now does in Bengal.

25. The substitution of the measure of attachment properly enforced for that of public sale, would be moreover attended with the important advantage of removing the only reason that exists for not rescinding the Regulation which renders leases liable to be annulled by the default of the proprietors who grant them. This law operates as a bar to men possessing capital (*by whom only any material improvement of the agriculture of the country can be effected*) entering into farming speculations, which is perhaps the greatest of all the evils resulting from the liability of the lands to public sale.

26. On this consideration, should it not be thought advisable to remove that liability for an arrear of revenue, I would suggest the expediency of rescinding the rule which makes leases liable to be annulled by a sale. The revenue might be secured against injury from collusive leases being granted in anticipation of a sale, by enacting, instead of the rule in question, that leases stipulating for a less rent than the average amount paid for the lands, including them during the five years preceding the date of their commencement, if in a permanently settled estate, or for a less rent than that at which the lands were rated at the last settlement, if in an estate not permanently assessed, should be held liable to be annulled, in the event of the proprietary right in the lands being sold for the recovery of revenue.

27. But whether the practice of selling or that of attaching were adopted, it would, perhaps, be unadvisable to discontinue at once the tehsildaree establishments, which have

hitherto been employed for collecting the revenue in the Western provinces. Establishments of that description might therefore be maintained in those provinces on a reduced scale, as a temporary arrangement; and by employing the canoongoes as tehsildars, the present charge on the revenue for the office of canoongoe might be applied to defray the expense of these temporary establishments, without the advantage derivable from the knowledge possessed by the individuals who now hold the office of canoongoe being relinquished. The following scale of a tehsildaree establishment, for a district containing a hundred thousand inhabitants (the extent of the district hereafter proposed for a moonsiff's and a police daroga's jurisdiction), would, I conceive, be sufficient for every purpose:

	Salary per Mensem.
Tehsildar	Rs 50
Treasurer	15
2 Mohurrirs	20
10 Peons	40
Paper, &c.	5
Total per Mensem,	Rs 130

28. The business of settlement-making in the Western provinces and in Cuttack, where the assessment of the land revenue has not been fixed in perpetuity, remains to be provided for; and as the establishments requisite for that purpose must depend upon the nature of the settlements to be formed, I trust I shall be excused for here obtruding my opinions on that subject.

29. In the first place I have to observe, that if the system of periodically adjusting the assessment in the provinces above-mentioned is to be continued, the period between the adjustments should be long. It should be at least sufficiently long to admit of the advantages expected from agricultural speculations being realized by those engaging in them before its expiration. About twenty-five years is supposed to be required for the return, with the ordinary rate of profit, of capital laid out on land with a view to a permanent improvement; and it would seem therefore advisable to adopt that as the term for which temporary settlements should be concluded. The landholder engaging with Government should also be competent to grant leases for twenty-five years; which leases, although extending beyond the term of the Government settlement during which they might be granted (as those granted in the second or any subsequent year of that term would do), should not be liable to be annulled at the formation of a new settlement; provided the annual rent conditioned to be paid for the lands included in them was 10 per cent., or any other rate which it might be thought proper to fix, more than the rent which the same lands were rated in the jummabundee or rental on which the assessment was adjusted at the preceding settlement. This rule would limit the increase of revenue demandable at the formation of a new settlement to a certain per centage on the assessment of the last settlement, with such further addition as might be chargeable, according to the ordinary rules of assessment on the rents *yielded* by lands brought into cultivation after the conclusion of that settlement.

30. The formation of temporary settlements on this principle, the assessment being charged only on the rents actually received by the proprietors of the lands, and consequently not affecting farming profits, would, I conceive, be nearly as favourable to the improvement of the country as a permanent settlement; whilst it would leave the progressively rising rents of the lands, a source from which might be supplied the revenue required to meet the increasing exigencies of the state, without taxing the profits derived from capital vested in any productive employment whatever.

31. In forming a temporary settlement of a mehal or estate on the principle above suggested, the objects to be accomplished should, I think, be limited to the following:

1st. The ascertainment of the boundary line, and of the total quantity (without inquiry as to the quality) of the land included within it, and the adjustment of the public assessment on the amount of the actual rental of the lands under cultivation, as exhibited in the jummabundee and other village accounts.*

2d. The ascertainment of the names of all the putteedars or biswadars (co-sharers in the zemindarry right), and the extent of the share or interest of each.

3d. The ascertainment of the nature and conditions of tenures about which disputes might exist, between the zemindars and the occupants of the lands included in such tenures, and the ascertainment of the validity or otherwise of rent-free tenures.

4th. The

* Where the jummabundee account did not exhibit the real rent of the lands in the occupancy of the putteedars, those lands might be estimated as capable of yielding the rate of rent paid for the nearest land in the same village, cultivated by a chupperbund or resident ryot. It may here be remarked, that although no reliance can be placed on the village accounts usually produced to public functionaries it would be far from impossible to devise means for making it the interest of landholders to keep regular and true accounts, and to produce them when either a court of justice or a collector might be authorized to inspect them.

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4th. The formation of a record of the usages of the mehal, in regard to allotting to the biswadars the lands cultivated by them individually, and settling the amount to be contributed by each to the payment of the public assessment; also in regard to allotting or leasing to residents and other ryots or cultivators, the lands not occupied by the biswadar, and adjusting and collecting the rents of these lands.

32. The jummabundee, and the other accounts connected with and serving as checks to the jummabundee, would exhibit, in regard to every mehal or zemindarry, the names of the cultivators not being biswadars or proprietors and the quantity of land occupied, with the rate and amount of rent paid by each at the time of a settlement. Inquiries, for the purpose of obtaining further information than might be found in these accounts in regard to such cultivators and the quality of the lands they occupy, with a view to fixing the rents to be paid by them to the proprietors either in perpetuity or for any given period, are, I conceive, unadvisable; in the first place, because it is quite impossible for a few, or even for any number of public functionaries, to ascertain all the circumstances influencing the amount of rent which should be paid for every field or small parcel of land throughout an extensive country; and in the second place, because conferring the right of perpetual occupancy of the lands at fixed rents upon men possessing neither intelligence nor capital, and merely cultivating for a subsistence, would be impolitic, as tending to increase the number and deteriorate the condition of the cultivating classes, and as opposing a bar not only to agricultural, but to manufacturing and commercial improvement, by preventing the production of any articles but those necessary to supply the few wants of an impoverished population. Nor is such an impolitic measure necessary for the protection of the cultivators of the description referred to; against unjust exactions, against infringement of the terms on which they engage to cultivate, and against infringement also of their right to engage wherever they please, and to employ their labour as they may find most advantageous, they should unquestionably be protected. But such protection may be, and, indeed, can only be effectually afforded, by providing courts of justice accessible to them, and able speedily to give them redress when oppressed or unjustly treated.'

33. I come now to explain the means which I would employ for making the settlements in the manner above contemplated.

34. It is obvious that for the settlement of an extensive tract of country for a long term of years, higher qualifications and greater experience are required than for the mere collection of the revenue. With a view therefore to the speedy as well as satisfactory execution of the work, I would propose, that officers selected on account of their superior knowledge of revenue business should be appointed special commissioners for the formation of each periodical settlement; that those commissioners should have no other duty to attend to; that they should be empowered to act singly; and that they should receive their instructions from, and make their reports to, Government, through the secretary in the Revenue department.

35. The commissioners should, I think, be allowed a salary of Rs 45,000 per annum, to cover all their personal expenses, and an efficient office establishment, the annual charge for which might amount to Rs 10,000.

36. I reckon that the first settlement of all the mehals or estates in the Western provinces and in Cuttack could be completed, in the manner contemplated, in five years by eleven commissioners (ten in the Western provinces and one in Cuttack); and in that case, as the first would occupy a longer time than any subsequent settlement, the average annual charge for settlement-making in the provinces referred to, would not exceed one lac and twenty-one thousand rupees.*

37. The business of the collectors being reduced to the simple duty of collecting the revenue, and the work of settling the assessment of revenue, where it has not been fixed in perpetuity, being committed to officers possessing the greatest knowledge and experience of revenue affairs of any in the service, there would be no necessity for commissioners of revenue to superintend the collectors, and Boards of Revenue to superintend those commissioners, as there could be nothing for those authorities to do which might not be done in the office of the secretary to Government in the Revenue or Territorial department.

38. The office, therefore, of Commissioner of Revenue, established by Regulation I. 1829, and the Sudder Board of Revenue, might be abolished, and the business of preparing periodical Reports of the general state of the Revenue for the information of the Government, and of submitting to the Government the Reports made by commissioners employed in making settlements, might be provided for by adding to the establishment of the office of Revenue Secretary two deputies, each with a salary of Rs 30,000 per annum.

39. The office of commissioner established in the Lower provinces by Regulation III. 1828, might likewise be abolished, as under an efficient system of judicature the suits committed to the cognizance of those commissioners would be more satisfactorily investigated and decided in the ordinary tribunals.

40. If

* The total charge for 11 commissioners and their office establishments, at Rs 55,000 per annum each, for 5 years, would be Rs 30,25,000, which, being divided by 25, the number of years for which each settlement is proposed to be concluded, would give, for each year, Rs 1,21,000.

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40. If it were deemed advisable to adopt the system of Revenue administration which I have suggested, the total annual charge for Revenue establishments would be reduced to about Rs 17,30,000,* which would leave about Rs 1,37,50,000 of the revenue now annually expended, under the heads, before particularized, applicable to the maintenance of efficient establishments for the administration of justice.

41. The suggestions I have to offer in regard to the administration of justice, I now proceed to submit.

*See annexed Schedule (A.)

ADMINISTRATION OF CIVIL JUSTICE.

42. In order to the establishment of an efficient system of civil judicature in the provinces referred to in this Minute, I would suggest as follows:

1st. That those provinces should be divided into districts, containing each about one hundred thousand inhabitants (every city or town being reckoned for part of a district, for one district, or for more than one district, according to the number of its inhabitants), and that every ten districts should form a *zillah*.

2d. That in every district there should be a court of primary jurisdiction, denominated the Moonsiff's Court, the judge (moonsiff) of which should have a personal salary of Rs 300 per mensem.

3d. That in every zillah there should be one superior court of primary jurisdiction, denominated the Sudder Ameen's Court, the judge of which (sudder ameen) should have a personal salary of Rs 1,000 per mensem.

4th. That in every zillah there should be one court to superintend and regulate the proceedings of the primary courts by hearing appeals from their decisions, denominated the *Zillah Court of Appeal*, the judge of which should have a personal salary of Rs 3,000 per mensem.

43. For the reasons I have already stated in this Minute (paragraph 7), the court of the moonsiff, as well as that of the sudder ameen, should be empowered to receive and try, in the first instance, suits of all descriptions and for any amount; plaintiffs being allowed the option of preferring their claims, either in the court of the moonsiff for the district in which the defendant might reside or the property in dispute might be situated, or in the court of the sudder ameen, and defendants having also the right to require suits instituted against them in the court of the sudder ameen, for a value *not exceeding a thousand rupees*, to be transferred for trial to the court of the moonsiff, and suits instituted against them in the latter court for a greater value than *a thousand rupees*, to be transferred to the former: by thus rendering the courts of the moonsiffs and sudder ameens competent to take cognizance of all suits, both plaintiffs and defendants might avail themselves for the decision of their differences, either of the convenience which a *near* tribunal of inferior, or of the advantage which a *distant* one of superior, qualifications might be supposed to afford, in all cases in which their being allowed such an option would not be likely to enable one party to subject the other to an expense and trouble which might be prejudicial to him.

44. The zillah court of appeal should have unlimited power to receive appeals from, and to confirm, alter or reverse all decrees and orders passed by the courts of the moonsiffs and sudder ameen within the zillah subject to its jurisdiction; and it should be obligatory upon the court to receive every appeal preferred to it within one month from the date of the decree or order objected to, and to make a special report to the Sudder Dewanny Adawlut of the cause of delay in regard to every appeal not decided within the period of three months from the date of its being preferred. The decisions of this court should be final; but it should be competent to the Sudder Dewanny Adawlut to call for its proceedings in any case in which there might appear ground for so doing, and to reverse or alter its decision. This general liability of the proceedings of the zillah court of appeal to the immediate revision of the tribunal of highest authority would operate as a powerful check, and would be necessary to ensure the due discharge of the important functions proposed to be committed to that court.

45. In regard to the salaries to be attached to the offices of moonsiff, sudder ameen and zillah judge of appeal, it is obvious that they should be sufficiently liberal to induce men of ability to qualify themselves for those offices, and to render the self-interest of the individuals appointed a motive to the faithful discharge of the duties to be performed. Liberality in this respect towards the moonsiffs and sudder ameens is advisable, moreover, with a view to economy, as want of qualification in those judges must increase the appeals from their decision, and make it necessary to appoint a greater number of judges of appeal with high salaries than would otherwise suffice. On these considerations, I think the personal salaries I have proposed should not be liable to any deductions; and that for the establishment of their courts, the moonsiffs should be allowed one rupee, and the sudder ameens two rupees, for every suit decided by them, and not reversed on appeal; and that a fixed sum of Rs 650 per mensem should be allowed for the establishment of the zillah court of appeal.

46. My reason for proposing to give to the moonsiffs and sudder ameens an allowance for their establishments, the amount of which would depend upon the number of the suits decided by them, and not reversed on appeal, rather than either a fixed monthly sum or a per centage on the value of the suits, is, that such a mode of providing for their establishments would operate as a stimulus to exertion, without having any tendency to induce greater attention to causes of large than to causes of small amount.

47. As

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47. As necessary, in order to afford the same facility to all in obtaining justice, and to prevent the courts of judicature being perverted from the end of their institution into instruments for legally oppressing the poor, I would propose that the levy of the fees payable under the existing regulations on the institution, and during the trial of suits and appeals, should be postponed till after the decision of the question litigated, and *then* levied with other costs from the losing party. By this means, the revenue derived from the taxes imposed on law proceedings, instead of being, as it now is, the cause of impediment to honest and necessary, and of encouragement to dishonest and mischievous litigation, would operate wholly as a check to the latter.

48. With the same view of checking injustice, by affording to those wronged every possible facility of obtaining redress, I would propose that litigants should be allowed to prosecute or defend their suits either in person or by any agent or attorney whom they might think proper to employ; and that the individual employed, whether a professional pleader or any other person, should be permitted to stipulate with his client for the remuneration to be received by him for his services, the fee allowed by existing regulations continuing to be the amount chargeable to the losing party for the pleader's fees of his adversary. Men of all classes would thus be admitted to plead in the several courts; from which this advantage could not fail to result, that only individuals of superior ability and knowledge would practise as professional pleaders, and these latter would have the strongest possible inducement to exert themselves in the advocacy of the causes undertaken by them.

49. I would propose also that the offices of moonsiff and sudder ameen should be open to all persons duly qualified; and I would submit whether it would not be wise policy, with a view to induce men of ability to devote themselves to the acquisition of the knowledge required for the proper performance of the judicial functions, and to ensure a continuance of exertion and good conduct on the part of those appointed to the discharge of those functions, to declare them eligible to be promoted to the highest offices in the judicial administration of the country.

50. A system of civil judicature on the footing above suggested, would consist of 572 courts of primary jurisdiction, (viz. 520 moonsiffs' and 52 sudder ameens' courts), and 52 zillah courts of appeal, besides the Sudder Dewanny Adawlut;* and that those establishments would be sufficient to ensure a prompt administration of justice in the provinces referred to, in their present condition, will appear from the following facts and considerations.

51. The total number of original suits instituted in the Lower and Western provinces in 1828 was as follows:

LOWER PROVINCES.		
Regular suits	135,155	
Summary suits, about	30,000	
		165,155
WESTERN PROVINCES.		
Regular suits	27,511	
Summary ditto, about	8,000	
		35,511
† TOTAL		200,666

52. In the Lower provinces the introduction of an improved and prompt administration of justice would, in all probability, have the effect of reducing the business of the courts, by frustrating the dishonest purpose for which many suits are there either groundlessly preferred or groundlessly defended; and although a different effect might be anticipated in the Western provinces, where, from the deficiency of moonsiffs' courts, many claims that are just cannot now be prosecuted, it is not likely that the business in those provinces would be more than double its present amount: it might, therefore, be safely assumed,

	L. P.	W. P.
* Moonsiffs' Courts	370	150
Sudder Ameens' Courts	37	15
Zillah Courts of Appeal	37	15

† This number includes the 52 summary suits for rent preferred to the collectors; the suits formerly cognizable by the special commissioners, under Regulations I. 1821, and I. 1823, and now transferred to the commissioners of revenue, with exception to the few suits of that description which may have been instituted in 1828, in the zillah in which the special commissioners had authority to act in that year; also the suits relating to rent-free land coming under the provisions of Regulation II. 1819, now cognizable by special commissioners, under Regulation III. 1828.

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assumed, that the number of original causes of all descriptions to be decided on the trial of their merits would not exceed the following Estimate:—

LOWER PROVINCES.		
Number of suits instituted, the same as at present - - - - - -	165,155	
Deduct,		
Number withdrawn or dismissed for default, the same proportion as at present, or one-fourth - - -	41,288	
To be decided on trial - - -		123,867
WESTERN PROVINCES.		
Number of suits instituted, estimated at double the present number - -	71,022	
Deduct,		
Number withdrawn or dismissed for default, one-fourth - - - -	17,755	
To be decided on trial - - -		53,207
TOTAL to be decided on trial - -		177,134

53. This would give only about 310 suits to be decided on trial annually, or about 26 monthly, by each of the 572 courts of primary jurisdiction, which is not much above the average number at present decided by the sudder ameens, in addition to the criminal cases which they dispose of.

54. The business of a zillah court of appeal would consist of appeals from the decisions of the eleven courts of primary jurisdiction subject to its authority, and of appeals from orders passed by those courts in regard to the execution of their decrees. The number of appeals of the first description annually preferred from the present moonsiffs and sudder ameens is about a fourteenth of the number of their decisions;* but the proportion would not probably exceed a twentieth under an improved system, which would provide for the office of moonsiff as well as that of sudder ameen, being filled by men of higher qualifications and more confided in than the present moonsiffs, and which would ensure a groundless appeal being speedily followed by a decision, adjudging the expenses attending it to be paid by the appellant. Taking, therefore, the number of suits annually decided in a zillah by its eleven courts of primary jurisdiction at 3,410 (being 310 by each court as above estimated), that number would give only about 170 appeals annually, or 14 monthly, to the court of appeal; a number which, considering that much less time is required for the disposal of an appeal than for the trial of an original suit, would not occupy the court more than ten or twelve days at most every month. The appeals from orders, in regard to the execution of decrees, would not probably be more than a twentieth of the number of decrees of which execution would require to be enforced. They would therefore be fewer than the appeals from decrees, and being of a simple nature, the disposal of them could not occupy more than two or three days every month.

55. It seems thus almost certain, that the business of the zillah courts of appeal would not be more than would give employment to the judges of those courts for half or two-thirds of every month. The other portion of the month, it is proposed, should be employed by them in the capacity of criminal judges, as hereafter explained.

ADMINISTRATION OF CRIMINAL JUSTICE.

56. The criminal branch of our judicial system, as I have already observed, requires amendment nearly as much as the civil branch, particularly that part of it which provides for bringing the perpetrators of crimes to punishment. In nineteen cases out of twenty,

* In the year 1828, the proportion of appeals from the moonsiffs, in the Lower provinces, was $\frac{1}{28}$th, and from the sudder ameens $\frac{1}{8}$th of the number of their decisions. The value litigated in the suits decided by the moonsiffs was limited to R^s 150, and of the whole number of suits of every description, instituted in all the courts, at least $\frac{3}{4}$ths were for a less value than that sum. The following estimate of the number of appeals likely to be preferred monthly to the zillah judge, formed on these data, (even without assuming that the inducement to appeal would be diminished under a system of judicature, administered by efficient judges,) gives nearly the same result as the estimate contained in this paragraph; viz.

Number of decisions passed monthly by ten moonsiffs and one sudder ameen, at 26 each -		286
viz.:		
$\frac{3}{4}$ths for a value not exceeding R^s 150 - - - - - - -	213	
$\frac{1}{4}$th for a value exceeding R^s 150 - - - - - - -	73	
Number of appeals from decisions of the first class ($\frac{1}{28}$th of 213) - - - - -		$7\frac{1}{2}$
Number of appeals from decisions of the second class ($\frac{1}{8}$th of 73) - - - - -		9
Total of probable number of appeals about - - - - - - - -		$16\frac{1}{2}$

twenty, the apprehension of an offender brings a far greater amount of evil upon the individual injured and his neighbours, than has been done by the offence committed. Although all these may have no other means of subsisting themselves and families but the produce of their daily labour, they are compelled, in order that the offender may be punished, to take a long journey to the magistrate's court, where they are often detained for months from their homes and occupations. This is a grievance of intolerable magnitude, far greater than any evil that could result from a petty thief being allowed to go unpunished, or even from a person of suspicious character being sometimes subjected to a slight punishment for an offence not committed by him; * and while the laws which render all classes constantly liable to this grievance continue in force, it is vain to expect from the people that aid towards the detection of offenders which is essential to an efficient police. It is impossible to remove the evil by multiplying European magistrates, so as to bring their courts within a short distance of all who are amenable to them, and it can only therefore be remedied by divesting the officers of police of the power to inflict it, as far as that can be done consistently with the duty of protecting the community from dangerous and heinous crimes, against which they cannot protect themselves, and by appointing intelligent and respectable men to fill the office of darogah of police.

57. With a view to the application of these remedies, I would suggest as follows:

1st. That the same division of the country into districts and zillahs proposed for the administration of civil justice in the provinces referred to, should be adopted for the administration of criminal justice in those provinces.

2d. That every city containing more than 100,000 inhabitants (and consequently comprising more than one district), with such portion of adjacent country as might be required to complete 200,000 inhabitants (or two districts), should form a cutwallee or city police jurisdiction, and that a cutwal, with a salary of 200 rupees per mensem, should be appointed to every such jurisdiction.

3d. That every district not comprised within the limits of a cutwallee or city jurisdiction, should form a mofussil or country thannah jurisdiction, and that a darogah or thanadar, with a salary of 150 rupees per mensem, should be appointed to every such jurisdiction.

4th. That every zillah (comprising ten districts) should form a magistracy, and that a magistrate, with a salary of Rs 1,500 per mensem, should be appointed to each zillah.

5th. That in every zillah there should be a criminal court for the trial of prisoners committed by the magistrate, and for hearing appeals from sentences passed by him, and that the office of judge of the criminal court should be held by the judge of the zillah court of appeal.

58. In cases of theft and burglary unattended with any act of personal violence, and affrays unattended with homicide or severe wounding, as well as in the cases the cognizance of which is already taken from them; † cutwals and thanadars should be peremptorily prohibited from interfering on any pretence whatever, unless applied to by an individual injured or expressly ordered by the magistrate to bring the offenders to punishment. But in every case of any of the descriptions above mentioned, in which an individual injured might complain, or in which the magistrate might see proper to order investigation, it should be competent to the cutwal or thanadar, to whom the injured individual's application might be made, or to whom the magistrate's order might be directed, to make full inquiry into the complaint or charge preferred, and after hearing both the evidence for the accuser and that for the accused, to release the latter if the complaint or charge should be deemed not proved, or if proved, to adjudge him to suffer the punishment to which he might be liable under the regulations in force; in which latter event, the accused should be forwarded to the magistrate (without the prosecutor and witnesses being bound over to attend ‡), to be dealt with as, upon a revision of the cutwal's or thanadar's proceedings, the magistrate might judge proper.

59. In cases of murder, robbery by violence, and other heinous and dangerous crimes, which the magistrates are not competent to punish, it should be the duty of cutwals and thanadars as hitherto, on receiving information from any source of the occurrence of any such crime, to institute the local inquiry directed in Regulation XX. 1817, and to forward to the magistrate the person or persons whom there might be reasonable ground for believing guilty of the crime committed; at the same time taking recognizances from the prosecutors and witnesses to attend when summoned by the magistrate, to give their evidence on the trial of the prisoners before the criminal court of the zillah.

60. The zillah magistrate should possess all the powers vested in magistrates by the existing Regulations, with exception to those given by Regulation XV. 1824, and in the exercise

* The present system does not afford security against this; on the contrary, it inflicts punishment upon all persons apprehended, the innocent as well as the guilty, by subjecting them to imprisonment for a longer time than might suffice for investigating the charges preferred against them.

† These are cases of adultery, fornication, abusive language, slight trespass, and inconsiderable assault. Section xii. Regulation XX. 1817.

‡ The great grievance of a long journey, and a long detention from home and daily occupations, being thus removed, prosecutors and witnesses would not have to bribe the police officers to be exempted from it; and so one great source of corruption would be closed.

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exercise of those powers, he should be authorized to release, punish or to commit for trial before the criminal court of the zillah, all persons apprehended and forwarded to him by the cutwals and thanadars on the evidence taken by those functionaries,* in like manner as magistrates are now authorized to do on the evidence taken by the officers of their courts; a discretion, however, being reserved to the magistrate in every case in which he might think the measure necessary for the ends of public justice, to require the personal attendance of the prosecutors and witnesses, and to take their examination in the same manner as magistrates may now do.

61. On the first of every month the zillah magistrate should send to the criminal judge of the zillah a calendar of the prisoners committed for trial in the preceding month, with the prisoners and witnesses named in the calendar.

62. The zillah criminal judge should exercise all the powers vested in a commissioner of circuit by Regulation I. 1829. He should hold a sessions of gaol delivery for his zillah on the first of every month, and continue to sit daily until all the prisoners in the calendar (whose cases it might not be necessary to postpone for further evidence) should be tried, and until all appeals from sentences and orders passed by the magistrate in the preceding month should be disposed of.

63. The establishments which it would be necessary to maintain at the charge of Government for the cutwallee and thanah jurisdictions need not be large. It is obvious that the physical force of the few burkundauzes whom Government could afford to pay, would be utterly inadequate, if unaided by the people, to maintain an efficient police in a populous city, or in a district including an area of more than four hundred square miles, and that consequently the main strength of the police must be derived from the watchmen maintained in cities at the charge of the inhabitants under Regulation XXII. 1816, and those maintained in villages by the landholder and village communities under Regulation XX. 1817.

64. If the subsidiary police force maintained under the Regulations above cited were efficient, and it might easily be rendered efficient, and if its co-operation and that of the people with the Government police officers were ensured, as it might be if the people were relieved from the annoyances and grievances to which these latter subject them, the following scale of Government establishments under cutwals and thanadars would, I conceive, be sufficient for every necessary purpose.

CITY OR CUTWALLEE JURISDICTIONS.

For every ward or division containing 25,000 inhabitants:—

1 Jumadar, at per mensem	Rs 15
1 Mohurrir, ditto	10
10 Burkundauzes, at 4	40
Paper, &c.	5
	Rs 70

THANNAH OR MOFUSSIL JURISDICTIONS.

1 Jumadar, at per mensem	Rs 15
1 Mohurrir, at ditto	10
20 Burkundauzes, at 4	80
Paper, &c.	5
	Rs 110

65. In the Western provinces it has been found necessary to station burkundauzes on the high roads for the protection of travellers against highway robbery, and as it would not, perhaps, yet be safe to withdraw these guards, it might be advisable to allow on that account for each thannah jurisdiction in those provinces, 20 burkundauzes in excess of the number above proposed for a thannah jurisdiction in the Lower provinces.

66. An efficient establishment for the court of the magistrate, including an establishment for the gaol, might, I conceive, be maintained at a monthly charge of Rs 800. In addition to what may be denominated the ordinary establishments, there are in most of the magistracies subsidiary establishments of guard-boats, balagushtee burkundauzes and sowars paid by Government; the annual charge for which amounts to about Rs 2,11,000. These subsidiary establishments require revision. I think it likely they might be immediately reduced to one-half their present amount, without any diminution of the efficiency of the police.

67. For the zillah criminal court, a small establishment in addition to that of the zillah court of appeal would suffice, the monthly charge for which would not exceed Rs 200.

68. A system of criminal judicature on the plan above suggested would consist of 519 native subordinate magistrates (cutwals and thanadars), 52 European superintending magistrates, and 52 criminal courts for the trial of heinous offenders, exclusive of the court of Nizamut Adawlut in Calcutta. The quantity of business to be disposed of monthly by each of those functionaries, estimating

	L. P.	W. P.
Native Magistrates	369	150.
European ditto	37	15.
Criminal Judges	37	15.

* The arguments for and against this proposition are stated at length in the annexed Paper, marked (B.)

estimating it from the state of the business in the year 1828, as exhibited in the Reports furnished for that year, would be as follows :

	L. P.	W. P.
By a NATIVE MAGISTRATE.		
Complaints and charges to be inquired into - -	8	6
By a EUROPEAN MAGISTRATE.		
Cases inquired into by ten native magistrates acting under the superintendence of the European magistrate, to be revised by the latter and disposed of by him, or made over to the criminal judge of the zillah - -	80	60
By a CRIMINAL JUDGE.		
Cases made over by the zillah magistrate, to be tried at the monthly sessions of gaol delivery - - -	A little under 3	A little above 3
Appeals from sentences and orders of zillah magistrates, to be heard and disposed of at the monthly sessions of gaol delivery; estimated at about $\frac{1}{20}$th of the number of sentences and orders passed by the magistrate	4	3

69. In the beginning of this Minute (para. 10 to 13), I submitted it as my opinion that there should be only one tribunal of supreme civil and criminal jurisdiction for both the Lower and the Western provinces, and that the seat of that one tribunal should be in Calcutta; urging, in support of this opinion, that the security for the due discharge of the important functions intrusted to the court, derived from its proceedings being open to public observation, (the most effective of all securities) is much greater in Calcutta than it would be elsewhere, and that were the court constituted so as to be enabled to hear and decide every appeal preferred to it without any delay, it could, wherever seated, exercise its controlling and regulating authority as effectively over the most remote as over the nearest of the subordinate courts within its jurisdiction. Courts of Sudder Dewanny Adawlut and Nizamut Adawlut.

70. Under a system of civil and criminal judicature, such as I have ventured to suggest, the business to be disposed of monthly by the sudder court would not probably exceed the following estimate.

CIVIL BUSINESS.

Petitions for admission of appeals from the decrees of 52 zillah judges of appeal, estimated at $\frac{1}{20}$th * of the whole number (728) of decrees, which would be passed in a month by those 52 judges - - - - - - - - - - - - 36½

Appeals admitted, estimated at $\frac{2}{3}$rds † of the number of petitions for admission - 24

Appeals from orders of the zillah judges of appeal, in regard to the execution of decrees, estimated at $\frac{1}{20}$th of the number of orders passed - - - - - 24

Appeals from orders of zillah judges of appeal relating to regular appeals pending in their courts, passed prior to the decision of the appeals, and from other orders of a miscellaneous nature, estimated at only one-fourth of the number of appeals of this description which are now preferred, it being certain that there would seldom be occasion for making such appeals under a system which would enable the lower courts to decide the causes on their files without any delay - - - - - 16

CRIMINAL BUSINESS.

Trials referred by the zillah criminal judges, estimated at the number now referred by the commissioners of circuit - - - - - - - - - - - 50

Appeals from orders of the criminal judges on petitions preferred to them while holding the sessions of gaol delivery, estimated at about one-fourth of the number of appeals of the same description now preferred - - - - - - - - 16

71. Besides the civil and criminal business above detailed, there would be the English correspondence to be disposed of, which would probably exceed what it now is.

72. Although, from the foregoing estimate, it seems evident that the business of the sudder court would be, upon the whole, reduced, I am nevertheless persuaded that the appointment of a sixth judge, with a corresponding increase of establishment, would be requisite to prevent the accumulation of arrears, and to ensure every appeal and application preferred to the court being heard and determined with the degree of promptitude which is necessary to an effective exercise of its controlling and regulating authority. It would be also requisite to enlarge the powers of the judges, by rendering them competent singly to decide

* For the reasons stated in para. 54, $\frac{1}{20}$th has been assumed as the probable proportion of the decrees of the native judges which would be appealed from; the same proportion is assumed here, it being unlikely that there would be more appeals from the decisions of the Europeans than from those of the natives.

† This proportion of the number of special appeals applied for, likely to be admitted, is much above the proportion now admitted.

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decide conclusively, whether for affirming, altering or reversing the decrees, sentence or order of a lower court, all civil cases, excepting such as might involve a disputed question of law not before settled by a decision of the court; in which last-mentioned cases the unsettled point should be referred to and determined by the opinion of the court collectively; and all criminal cases, excepting those in which a sentence of death might be passed, for the confirmation of which the concurring opinion of two judges should, as at present, be necessary.

73. But whatever alteration in the existing system of judicature it may be deemed advisable to adopt, an addition to the present number of judges in the sudder court will be indispensable. In a Minute recorded by me on the 30th of July 1828, urging the expediency of making provision for the increasing business of the court, I showed that the number of appeals, regular and special, then on its file was 496; that the average number annually decided was only 105; and that consequently an appeal to the court could not be heard in less than four years and a half from the time of its being preferred. The number of appeals has been somewhat reduced since that time, but the arrear of general business has increased,* and occasions a delay in the hearing and disposing of applications to the court, which renders it almost wholly inefficient for the end of its institution. At the same time it is to be observed, and it is due to the judges to state, that the accumulation has increased since July 1828, notwithstanding more cases have been decided in the period that has elapsed since that date, than ever were decided in any preceding period of the same duration; and that this greater number of decisions has been effected by *some* of the judges labouring daily on the bench from 10 A.M. till sunset,† a degree of labour which few men are capable of enduring, and which ought not, in this exhausting climate, to be imposed on any one.

74. The annexed Schedule, marked (A.) shows the present charge for the Judicial and Revenue administration of the provinces subject to the operation of the Bengal Code of Regulations, as nearly as I have been able to ascertain it, and an estimate of the charge that would be incurred under the plan explained in the foregoing pages. The latter charge amounts to Rs 1,17,86,772, being less than the former by nearly thirty-seven lacs of rupees; and it will be observed, that while this saving of revenue would be effected, all functionaries, native as well as European, would receive salaries more proportionate to the importance of the duties to be performed by them than they now do.

(signed) *A. Ross.*

(A. 1.)

A SCHEDULE, showing the AMOUNT of the PRESENT and of the PROPOSED ESTABLISHMENTS for the Revenue and Judicial Administration of the Provinces subject to the operation of the *Bengal* Code of Regulations; viz.

LOWER PROVINCES; comprising Bengal, Behar, Orissa, Benares and Cuttack.

WESTERN PROVINCES; comprising the Provinces specified in Regulations II. 1803, and VIII. 1805.

PRESENT ESTABLISHMENTS.

I.—REVENUE DEPARTMENT.	Rupees.	Rupees.	Rupees.
59 Collectors of Land Revenue and their Establishments:			
Lower Provinces, 36 Collectors	23,36,762		
Western Provinces, 23 Collectors	25,63,312		
		49,00,074	
20 Commissioners of Revenue and Circuit, and their Establishments:			
Lower Provinces - 11 Commissioners	5,36,976		
Western Provinces, 9 ditto	4,58,874		
		9,95,850	
Carried forward			58,95,924

	Number of Cases in Arrear, On 1st July 1828.	On 1st March 1830.
* Appeals, regular and special	496	436
Applications for admission of special appeals	287	390
Summary appeals, civil and criminal	154	267
Returns to precepts	206	409
TOTAL	1,143	1,502

† I do not take to myself the credit of being one of the judges who thus labour.

	Rupees.	Rupees.	Rupees.
Brought forward - - -	- - -	- - -	58,95,924
I.—Revenue Department—*continued.*			
4 Commissioners and their Establishments, for the trial of Suits regarding the liability of Lands to Public Assessment, under Regulation III. 1828:			
Lower Provinces - 4 Commissioners - - - - -	2,12,112		
Western Provinces - - - - - - - - -	—		
		2,12,112	
Revenue Surveys - - - - - - - - -	- - -	1,96,992	
Sudder Board of Revenue and Establishments - -	- - -	2,69,160	
Contingencies - - - - - - - - -	- - -	5,33,796	
			12,12,060
TOTAL of ESTABLISHMENTS in the REVENUE DEPARTMENT - - -	- - -	- - -	71,07,984
II.—JUDICIAL DEPARTMENT.			
Lower Provinces:			
31 Judges and Magistrates, and Office Establishments *Registers *Covenanted Assistants 31 Civil Surgeons 122 Law Officers and Sudder Ameens	Annual Charge. 28,83,348		
476 Moonsiffs; amount of fees received by them, about	1,42,400		
529 Police Thanna Establishments - - - -	9,14,724		
Contingencies - - - - - - - -	6,58,932		
		45,99,404	
Western Provinces:			
14 Judges and Magistrates *Registers *Covenanted Assistants 14 Civil Surgeons 36 Law Officers and Sudder Ameens	12,20,988		
72 Moonsiffs; amount of fees received, about - -	21,600		
323 Police Thanna Establishments - - - -	7,92,324		
Contingencies - - - - - - - -	6,29,700		
		26,64,612	
Courts of Appeal:			
Lower Provinces - 5 Courts - - - - - -	5,29,544		
Western Provinces, 1 ditto - - - - - -	1,13,536		
		6,43,080	
Courts of Sudder Dewanny Adawlut and Nizamut Adawlut:			
5 Judges' Salaries - - - - - - -	2,80,000		
1 Register and Deputy Register - - - - -	39,600		
5 Covenanted Assistants - - - - - -	34,800		
2 Translators of Regulations - - - - -	9,600		
3 Mahomedan Law Officers - - - - -	15,000		
1 Pundit - - - - - - - -	1,800		
1 Vakeel of Government - - - - -	480		
15 Uncovenanted Assistants - - - - - -	22,920		
49 Moonshees', Mohurrirs' and Nazirs' Establishments, &c. &c. - - - - - - - - -	27,428		
Contingencies - - - - - - - - -	30,720		
		4,62,348	
Allypore Gaol - - - - - - - - -	- - -	9,180	
TOTAL of ESTABLISHMENTS in JUDICIAL DEPARTMENT - - - - -	- - -		83,78,624
GRAND TOTAL of PRESENT ESTABLISHMENTS in the REVENUE & JUDICIAL DEPARTMENTS	- - -	- - -	1,54,86,608

* The number of Registers and Covenanted Assistants *should* be equal to the number of Judges, but there are not so many actually employed. Were the full complement employed, the annual charge for the Zillah Establishments under the existing system would exceed the amount exhibited in this Estimate.

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Papers respecting Alterations of System in the Judicial Department.

(A. 2.)

PROPOSED ESTABLISHMENTS.

LOWER PROVINCES to be divided into 37 Zillahs.
WESTERN PROVINCES to be divided into 15 Zillahs.
(*See* para. 42 of Minute.)

I.—REVENUE DEPARTMENT.	Rupees.	Rupees.	Rupees.
50 Collectors, each with a salary of R$ 1,000, and an Office Establishment of R$ 500 per annum; to have no duty to perform, but that of collecting the Assessed Revenue—(*See* para. 21 to 23 of Minute):	Annual Charge.		
Lower Provinces - 20 Collectors (allowing 2 for Cuttack)	3,60,000		
Western Provinces, 30 ditto - - - - - -	5,40,000		
		9,00,000	
155 Tehsildars, each with a salary of R$ 50, and an Establishment of R$ 80 per mensem—(*See* para. 27 of Minute):			
Lower Provinces - 5 Tehsildars (in Cuttack) - -	7,800		
Western Provinces, 150 ditto - - - - - -	2,34,000		
		2,41,800	
11 Commissioners for making settlements of the Districts not permanently assessed, for a term of 25 years, each with a salary and establishments of R$ 55,000 per annum, for 5 years, or R$ 11,000 per annum, for 25 years—(*See* para. 33 to 36 of Minute):			
Lower Provinces - 1 Commissioner (in Cuttack) -	11,000		
Western Provinces, 10 ditto - - - - - -	1,10,000		
		1,21,000	
Revenue Surveys; present Charge of R$ 1,96,992 per annum for 5 years, is R$ 9,84,960, which, divided by 25, gives per annum - - - - - - - -	- - -	39,398	
Contingencies (estimated at 2/3rds of their present amount) - - - - - - - - - -	- - -	3,55,864	
Addition to the Establishment of the Office of Secretary to Government in the Revenue Department, instead of the present Sudder Board of Revenue; viz.			
2 Deputy Secretaries, each with a salary of R$ 30,000, and an Establishment of Writers of R$ 6,000 per annum.—(*See* para. 38 of Minute) - - - -	- - -	72,000	
TOTAL of PROPOSED ESTABLISHMENTS in the REVENUE DEPARTMENT - -	- - -		17,30,062
II.—JUDICIAL DEPARTMENT.			
CIVIL BRANCH.			
520 Moonsiffs (10 in every Zillah), each with a salary of R$ 300 per mensem, and an allowance for Court Establishment of one rupee for every suit decided, and not reversed on appeal, estimated at R$ 30 per mensem. These Judges to be empowered to take cognizance of all original suits for a value not exceeding R$ 1,000, which either the plaintiffs or the defendants may desire to be tried by them, and also of original suits for any value above R$ 1,000, which both the plaintiffs and the defendants may desire to submit to their decision—(*See* para. 42–46 of Minute):			
Lower Provinces - 370 Moonsiffs - - - - -	14,65,200		
Western Provinces, 150 ditto - - - - -	5,94,000		
		20,59,200	
52 Sudder Ameens (one in every zillah), each with a salary of R$ 1,000 per mensem, and an allowance for Court Establishment of two rupees for every suit decided and not reversed on appeal, estimated at R$ 60 per mensem.			
Carried forward - - -	- - -	20,59,200	17,30,062

	Rupees.	Rupees.	Rupees.
Brought forward - - -	- - -	20,59,200	17,30,062
II.—Judicial Department—*continued.*			
Civil Branch—*continued.*			
These Judges to be empowered to take cognizance of all original suits preferred to them for a value exceeding R$ 1,000, and also of original suits preferred to them for a less value than R$ 1,000, which the defendants may not desire to be transferred for trial to the Moonsiff of the district in which they reside—(*See* para. 42–46 of Minute):			
	Annual Charge.		
Lower Provinces - 37 Sudder Ameens - - -	4,70,640		
Western Provinces, 15 ditto - - - - -	1,90,800		
		6,61,440	
52 Judges of Appeal (one in every zillah), each with a salary of R$ 3,000, and an allowance for Court Establishment of R$ 650 per mensem.			
The Judges of Appeal to be empowered to hear appeals from the decisions of the Moonsiffs and Sudder Ameens, and to perform all the functions of the present Provincial Courts of Appeal, with exception to trying original suits—(*See* para. 42–46 of Minute):			
Lower Provinces - 37 Judges of Appeal - - -	16,20,600		
Western Provinces, 15 ditto - - - - -	6,57,300		
		22,77,600	
TOTAL of CIVIL BRANCH, exclusive of Contingencies and of the Court of S. D. A$ - -	- - -	49,98,240	
CRIMINAL BRANCH.			
4 Cutwals, or native magistrates of cities, containing 100,000, or more than 100,000 inhabitants, each with a salary of R$ 200, and an establishment of R$ 70 per mensem, for every ward, or every 25,000 inhabitants contained in his jurisdiction—(*See* para. 56–67 of Minute):			
Lower Provinces, 4 Cutwallee Jurisdictions - - Viz.	26,400		
City Benares - 8 Wards – Patna - 4 ditto – Moorshedabad, 4 ditto – Dacca - 4 ditto	equal to 5 Districts.		
Western Provinces * - - - - - - -	—		
	26,400		
(A. 3.)			
515 Thannadars, or native magistrates of thannahs or country districts, each with a salary of R$ 150 per mensem, and an Establishment of R$ 110 per mensem in the Lower Provinces, and R$ 190 per mensem in the Western Provinces.			
These native magistrates, and also the cutwals of cities, to take cognizance of all crimes of a dangerous nature, without application from the persons injured, and of offences not of a dangerous nature, upon application *only* from the injured parties, or upon order from the magistrate of the zillah—(*See* para. 56–67 of Minute):			
Lower Provinces, 365 Thannadars of Mofussil or country districts (exclusive of the 5 districts included in the Cutwallee jurisdictions of the cities of Benares, Patna, Moorshedabad and Dacca) - -	11,38,800		
Western Provinces, 150 Thannadars - - -	6,12,000		
Carried forward - - -	17,77,200	49,98,240	17,30,062

* In these Provinces there are no cities containing so many as 100,000 inhabitants.

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	Rupees.	Rupees.	Rupees.	Rupees.
Brought forward - - -	- -	17,77,200	49,98,240	17,30,062
II.—Judicial Department—*continued.*				
Criminal Branch—*continued.*				
52 European Magistrates (one in every zillah), each with a salary of R^{s} 1,500, and an Establishment of R^{s} 800 per mensem.				
These magistrates to have all the powers possessed by the present magistrates, and to be authorized to confirm or alter the sentences of the native magistrates, on a revision of the proceedings of the latter, and to commit prisoners charged with heinous crimes for trial before the criminal court of the zillah, on a consideration of the depositions of the witnesses examined by the native magistrates—(*See* para. 56–67 of Minute):	Annual Charge.			
Lower Provinces - 37 European Magistrates -	10,21,200			
Western Provinces, 15 ditto - - - -	4,14,000			
		14,35,200		
Subsidiary Police Establishments, attached to Magistracies—(*Vide* para. 66 of Minute):				
Lower Provinces - Balagushtee Police Officers and Guard-boats - -	26,316			
Western Provinces, Police Sowars - - - -	79,488			
		1,05,804		
52 Criminal Judges (one in every zillah.) These judges to be vested with the powers of the present Commissioners of Circuit, and to hold a sessions of gaol-delivery every month.				
The office of Criminal Judge to be held by the Judge of the Zillah Court of Appeal, and R^{s} 200 per mensem allowed for the establishment of the Criminal Court, in addition to the establishment allowed for the Court of Appeal—(*See* para. 56–67 of Minute):				
Lower Provinces - 37 Criminal Court Establishments - - -	88,800			
Western Provinces, 15 ditto - - - -	36,000			
		1,24,800		
TOTAL of CRIMINAL BRANCH, exclusive of Contingencies, and of Court of Nizamut Adawlut - - - - - -	- -		34,43,004	
TOTAL of CIVIL & CRIMINAL BRANCHES, exclusive of Contingencies, and of the Courts of Sudder Dewanny Adawlut and Nizamut Adawlut - - - -	- -	- -	84,41,244	
CONTINGENCIES in Civil and Criminal Branches (estimated at 2/3rds* of their present amount):				
Lower Provinces - - - - - - -	- -	4,39,286		
Western Provinces - - - - - -	- -	4,19,800		
			8,59,086	
COURTS of SUDDER DEWANNY and NIZAMUT ADAWLUT. (*See* para. 69–73 of Minute):			93,00,330	
6 Judges, each with a salary of R^{s} 55,000 per annum - - - - - - - -	3,30,000			
1 Register, with a salary of - - - -	36,000			
1 Deputy Register, with a salary of - -	18,000			
2 Translators of Regulations in the Persian and Bengallee languages, each with a salary of R^{s} 4,800 - - - - - - -	9,600			
Carried forward - - -	3,93,600	- -	93,00,330	17,30,062

* By not incurring any contingent expense but what was really necessary, the charge under this head might, I think, be reduced to about the amount here estimated.

	Rupees.	Rupees.	Rupees.	Rupees.
Brought forward - - -	3,93,600	- -	93,00,330	17,30,062
Courts of Sudder Dewanny, &c.—*continued.*				
2 Mahomedan Law-officers, each with a salary of R^{s} 12,000 - - - - - - -	24,000			
1 Pundit, with a salary of* - - - - -	1,800			
1 Vakeel of Government, with a salary of - would be a situation for which a covenanted servant, if qualified, might be eligible.	4,800			
15 English Writers - - - - - - -	22,920			
Native Amlahs - - - - - - -	30,000			
Contingencies, estimated at 2/3rds of the present amount - - - - - - - - -	20,480			
		4,97,600		
Gaol at Allypore - - - - - - -	- -	9,180		
			5,06,780	
TOTAL of ESTABLISHMENTS in the JUDICIAL DEPARTMENT - -	- -	- -		98,07,110
				1,15,37,172
(A. 4.)				
52 Surgeons, each with a salary of R^{s} 4,800 -	- -	- -	- -	2,49,600
GRAND TOTAL of the PROPOSED ESTABLISHMENTS in both the REVENUE and JUDICIAL DEPARTMENTS - - - -	- -	- -	- -	1,17,86,772
Which being deducted from the amount of the present Establishments - - - - -	- -	- -	- -	1,54,86,608
Leaves an immediate annual Saving of - -	- -	- -	- -	36,99,836
This saving would be further increased, when the following proposed temporary Establishments became unnecessary; viz. Tehseeldarry Establishments in the Western Provinces and Cuttack, per annum - - - - - (*See* para. 27 of Minute.)	- -	- -	2,41,800	
Supernumerary Police Burkundauzes, allowed for guarding the high-roads in the Western Provinces, per annum - - - - - (*See* para. 65 of Minute.)	- -	- -	1,44,000	
Subsidiary Establishment of Sowars in the Western Provinces might hereafter be reduced from R^{s} 79,488, allowed in the foregoing Schedule, to R^{s} 40,500 per annum, which would maintain 15 Sowars in each magistracy, and leave an annual saving of - - - - - (*See* para. 66 of Minute.)	- -	- -	38,988	4,24,788
Probable future Saving - - - - - -	- -	- -	- -	41,24,624
The following covenanted civil servants would be supernumeraries, were the above plan immediately adopted; the annual charge for maintaining whom on their present allowances would be about - - - - - -	- -	- -	8,08,800	
Viz.				
52 Registers, at R^{s} 6,000 each per annum -	- -	3,12,000		
60 Assistants, drawing - - - - - -	- -	2,88,000		
58 Collegians, drawing - - - - - -	- -	2,08,800		
		8,08,800		

(signed) *A. Ross.*

* The numerous recorded Bewastahs, containing expositions of almost every point of Hindoo law likely to come under the consideration of the court, render the services of a pundit now but little wanted; an increase of the salary of that officer is not therefore deemed necessary.

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Papers respecting Alterations of System in the Judicial Department.

(B. 1.)

EXTRACTS from a MINUTE of Mr. *Ross*, Judge of the Court of Nizamut Adawlut, relative to the Administration of Criminal Justice in the Provinces, subject to the *Bengal* Government, dated 21st July 1827.

Para. 12. "IT is also to be observed, that authorizing the magistrates to decide as to the guilt or innocence of accused persons upon the faith of testimony not delivered in their presence, would not introduce a new practice, the magistrates being already authorized by the regulations in force to employ the native officers of their courts to take the depositions of the prosecutors and witnesses in all cases coming before them.* In fact, the only change proposed in this respect is, the substitution of depositions taken by *native officers* in the mofussil for depositions taken by *native officers* at the sudder station of the zillah; and regarding the former merely as more likely to be trustworthy than the latter, I cannot but think that the change would be an improvement of the present practice."

13. "In support of this opinion, I would submit whether a person having a knowledge of a fact or circumstance to be ascertained, is not more likely to be willing to state what he knows, and to adhere to truth in his statement, when examined without being previously subjected to inconvenience and annoyance near the place where the fact or circumstance in question occurred, and in the presence of a number of people acquainted with him, and capable of judging as to the truth or otherwise of what he may say, than when examined (as witnesses are now examined) at a distant station, to which he has been dragged from his home and occupations, and where no one hearing him knows or cares whether he speaks truth or not. I would submit also, whether a police darogah making an inquiry on the spot into the circumstances attending the commission of a crime, responsible for the manner in which the inquiry is conducted, and having his proceedings closely observed by the people among whom the crime was committed, is not more likely to be able, by putting proper questions to the witnesses examined, to elicit the truth from them, and more likely to record their depositions faithfully, than a common mohurrir of a magistrate's court, who can have no knowledge of the circumstances of the case but what he derives from a hurried and careless perusal of the thannah proceedings, who is under no responsibility, and whose sole object is to finish the task assigned to him as quickly and with as little trouble to himself as possible. And further I would submit, whether it must not be presumed that a person holding the office of darogah of police is better qualified in point of intelligence and education for performing the duty of examination than a mohurrir, whose office only requires that he shall be able to write quickly and legibly."

14. "In point of qualification, the superiority of the darogahs ought to be great. It is to be recollected that their office requires that they shall be capable of conducting the initiatory process of every criminal prosecution, of which the examination of witnesses is an essential, and indeed the principal part; and that upon their being qualified for that duty depends the result of all prosecutions instituted; in other words, the degree of efficiency with which criminal justice is administered."

15. "It is indeed particularly necessary, as the law now stands, that the office in question should be properly filled, for it is obvious how much the evils which compulsory prosecution in trivial cases produces must be aggravated, when the power of inflicting them is intrusted to ignorant and unprincipled men."

(B. 2.)

EXTRACTS from a LETTER from the Secretary to Government in the Judicial Department to the Register of the Court of Nizamut Adawlut, dated 12th September 1827, communicating the observations of Government on the suggestions contained in the Minute above quoted from.

Para. 13. "But the most important of Mr. Ross's suggestions is that which contemplates such an unreserved and implicit confidence in the integrity of the police darogahs as shall warrant a magistrate in proceeding to judgment after reading their reports and the evidence taken by them, without having the prosecutor and witnesses before him."

Para. 14.

EXTRACTS from a MINUTE by Mr. *Ross*, Judge of the Court of Nizamut Adawlut, dated the 5th February 1828.

"I beg it may be understood that I did not recommend this rule as unobjectionable; and that I do not advocate the practice which it would sanction, of magistrates giving judgment upon a mere perusal of written depositions. I recommend the rule only as being less objectionable in every point of view than the rule now followed, which also sanctions the same practice; a practice, it must be kept in mind, which it was found necessary long ago to have recourse to, and which cannot be discontinued under existing circumstances."

"In

* The practice is doubtless liable to objection; but small as the number of magistrates is, it cannot be avoided without putting almost an entire stop to the administration of justice, in cases of minor delinquency, or intrusting it wholly to native functionaries.

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(2.) Minutes of the Judges of the Sudder Adawlut.

Para. 14. "The Vice-President in Council cannot help thinking that such a rule would afford far more opportunities for corrupt conduct than the partial discretion allowed to them (the darogahs) of staying the execution of process against the accused, which has been adverted to."

"In opposition to the opinion expressed in this paragraph, I would submit, that the power of giving annoyance being the main source from which the darogahs of police derive a corrupt advantage from their office, a rule which would take from them that power in the cases which afford the most frequent occasions for its exercise, must take from them most of the opportunities they now have for corrupt conduct. This the rule proposed by me would do. In the most numerous class of cases, that rule would in fact leave to the darogahs no other source of corruption but the power of making false reports, favourable or unfavourable, to the parties accused, in voluntary prosecutions; a source which would not be so productive as that which would be closed. The number of voluntary prosecutors would not be so great as the number of involuntary prosecutors is under the present system; and although it is probable enough that the former (the voluntary prosecutors) might be disposed to give a bribe to ensure the punishment of the persons accused by them, it cannot be supposed that, to obtain a report which might fail of its object and bring themselves into trouble, they could be induced to give so much as the latter (the involuntary prosecutors) may be believed very willing to give, to be exempted from what is in reality equivalent to an infliction of punishment upon themselves, namely, the evils of a prosecution as now conducted; an infliction from which, at present, exemption can be obtained only by bribery. There would be still less likelihood of any thing considerable being obtained from prisoners for reports falsely favourable to them, because the presence of the prosecutors and other persons observing the proceedings of the darogahs would render it difficult to make such report, without greater risk of detection than it would be prudent to incur for a bribe of the small amount which the generality of prisoners could give."

Para. 15. "In the absence of the prosecutors and witnesses, the magistrate would possess no means of knowing whether the darogah had acted honestly and impartially or not. A favourable turn given to the case would ensure the prisoner's release; while on the other hand, if the report were against him, he would always be able to defeat the object of the rule, and compel the attendance of his accusers, by asserting that the darogah had reported their evidence unfairly."

"In almost every case which the magistrate now decides, the evidence is taken by a native officer of his court. The only means the magistrate has of knowing that it has been fairly taken is that of examining the prosecutors and witnesses himself; and he would have the same means of ascertaining its fairness were it taken by a darogah of police. The advantage derived from the present course of procedure is in reality very little: it amounts only to this, that prosecutors and witnesses being present in court, the magistrate, if desirous personally to examine them after they have been examined by the native officer, may do so as soon as his other business will permit, without having to wait a few days to procure their attendance, as he would have to do were they not present. But then it is to be considered that a personal examination by the magistrate is seldom resorted to, and that the necessity for such an examination would exist only in the cases in which the evil would be least felt, namely, those in which the accusers or accused might be able to offer a more than ordinary temptation for the darogah's favour. In all other cases, (on the considerations stated in the 8th para. of this, and in the

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13th para. of my former Minute) the magistrate might place at least as much reliance on the examination taken by a darogah as he now does on those taken by a mohurrir of his court."

"As to prisoners being able to defeat the object of the rule, by asserting that the darogahs had unfairly reported the evidence adduced against them, I submit that the object in view could not be defeated in that manner. Doubtless prisoners would often assert the partiality of the darogahs as a shift to avoid punishment; but when obviously a mere shift, the assertion would not be permitted to avail; and when supported by such a degree of probability as to raise doubt in the magistrate's mind in regard to the darogah's proceedings, the prisoner might be released without punishment, if the prosecutor declined to attend after receiving a notification that his presence before the magistrate was required. No greater evil would ensue from a really guilty prisoner being thus released with impunity, than from an offender being allowed to go unpunished in consequence of the person injured by his offence declining in the first instance to prosecute him."

Para. 16. "In short, the proposed rule would, in the estimation of Government, be wholly inoperative to any good purpose, and would be alike unsatisfactory to all parties; to the prosecutor, to the accused, and above all to the magistrate, who would never, under such circumstances, feel that he was proceeding upon sure grounds."

"Had the considerations which I have now submitted been adverted to, Government, I am inclined to think, would not have adopted the opinion expressed in this paragraph as to the probable operation of the proposed rule."

"The rule would obviously enable the magistrate to lessen in a very considerable degree the harassment and difficulties to which they are now compelled in administering the laws to subject the people; nor does there appear to be reason to apprehend that it would cause any dissatisfaction."

"To prosecutors the rule could hardly be unsatisfactory, because they would have the option of attending the court of the magistrate and prosecuting their complaint in person, if they preferred that course."

"Nor would the parties accused have much cause to be dissatisfied. One very great advantage, at least, would result to them, namely, that of being speedily released if apprehended on insufficient evidence, without suffering (as now frequently happens) a term of imprisonment equal to what they would deserve if guilty."

"The magistrates also, I should think, would generally approve the rule. It would enable them, as already observed, to avoid giving unnecessary vexation and trouble in the discharge of their duties. It would at the same time afford at least as sure grounds for their decisions as the rule now prescribed, and it would be always in their power to follow the latter rule when they might think it advisable so to do."

"I have only further to observe, that the weight of the objections to a modification of the existing law, such as I ventured to suggest, will be much reduced, and that of the arguments in favour of it much increased, when Government shall give effect to its intention of raising the allowances of the darogahs of police and placing them on a respectable footing."

(signed) *A. Ross.*

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(2.) Minutes of the Judges of the Sudder Adawlut.

Mr. *Turnbull's* MINUTE.

THE professed object of Mr. Bayley's plan is to provide for the more extended employment of native agency, with a view to the more prompt and efficient administration of civil justice. This proposition cannot but command general assent. It is not to be denied that our present means are inadequate, and there can be little doubt that if due care be taken in the selection, and the situation of native judge be raised to a proper standard of respectability, individuals will be found, fully qualified by character, talent and learning, to discharge the functions proposed to be confided to them. The only question on which a difference of opinion may arise, is, as to the extent of the powers which should be vested in the native tribunals, "without occasioning the evils arising from a too sudden and violent change in the established system." On this point the observation is no doubt entitled to weight, that much of the success which has attended our progress hitherto, in the amelioration of the native institutions, "is to be ascribed to the slowness and caution which have marked the several steps of our advance." But I am still disposed to think, provided always, as above stated, that *due care be taken in the selection*, that the principle of the new arrangement might be carried further than Mr. Bayley's plan proposes, especially in regard to the office of moonsiff. The salary of 100 rupees (inclusive of establishment) proposed for those officers is, I think, much too low, and is, indeed, less than many of them receive already. To render them more extensively useful and efficient, I would raise the salary to 200 rupees, and increase their jurisdiction to the extent vested in our present higher class of sudder ameens, giving them cognizance of suits not exceeding in value or amount 1,000 rupees. The number of the new class of sudder ameens, with the higher salary of 500 rupees, would, of course, be proportionally diminished. Considering the respectable footing on which it is proposed to place the latter officers, (who will receive a higher salary than has yet been enjoyed by a native under our Government, with the single exception, I believe, of the Cawzee Ool Koozzat,) it may be questioned, whether their jurisdiction might not be extended to the trial of suits even beyond 5,000 rupees. But the necessity of this must depend on the nature of the arrangements which may ultimately be adopted in regard to the European courts; for to whatever extent it may be determined to raise the powers of the native tribunals, it will obviously be of primary importance to provide for a vigilant and active control over their proceedings by the European authorities; and as the zillah judge will be the immediate appellate and controlling jurisdiction, he must be relieved to the fullest extent possible, so that his time and attention shall be principally directed to the trial of appeals from the acts and decisions of the native courts. The extensive power which will thus be vested in the zillah judge leads to the consideration of the proposed abolition of the provincial courts; this measure, as well as the further proposition for abolishing the office of register to the zillah courts, being, I presume, deemed necessary to meet the additional expense which will be incurred in raising the character of the native tribunals. On this subject I can only say, that if the main object in view cannot be attained otherwise than at the proposed sacrifice, I deeply lament the necessity, being strongly impressed with the belief that the abolition of the intermediate controlling authority of the provincial courts will be attended with serious hazard to the efficiency of the whole scheme. We have daily experience at present of the necessity of check and control over the acts and conduct, whether of our native or European tribunals; and it requires little foresight to contemplate the extent to which that necessity will increase under the operation of the new system, which will place such large powers in the hands of the natives in the first instance, and render the fiat of the zillah judge final and conclusive in a large majority of the cases brought before him. This control has heretofore been exercised intermediately by six provincial courts, consisting, for many years past, of four or five judges; the whole being subject to one general superintending authority, to which all classes have been accustomed to look with confidence for redress in the final resort, and to which, as placed at the seat of Government, they will still look, notwithstanding the establishment of a second or more courts of similar denomination in the interior of the country. In lieu then of these six courts, it is proposed to establish a separate sudder for the Western provinces, to consist of three members, thereby placing in the hands of three individuals the multifarious* duties heretofore performed by nine or ten, and transferring those of the remaining 19 or 20, to the already overwhelming duties of the present sudder; while in all the provinces, the means before afforded of more immediate appeal and redress, at a moment when they will be so much more urgently called for, will be removed to a distance, which will render them inaccessible and unavailable to the people at large. Under such circumstances, I would strongly advocate the continuance, if practicable, of the provincial courts, even on their reduced scale, in preference to the establishment of a second sudder. But if the necessity of economy be so urgently pressing as to leave us no alternative, it will be absolutely necessary to introduce an intermediate authority between the native courts and that of the zillah judge, as well for the trial of original suits exceeding in value or amount the sum of 5,000 rupees, as to assist the zillah judge in the trial of the numerous appeals which will be preferred to him from the decisions and acts of the native tribunals. An office too of this description, which might be denominated as formerly assistant judge, independently of its necessity, would provide an intermediate grade of promotion and encouragement to the junior servants, as well as the means of acquiring judicial knowledge and experience, in respect to which the proposed plan seems to be defective; though the mode in which it is suggested to employ them on their first entering the public service, viz. as assistants to the collectors, is highly desirable. They should at

* Or, as stated in Mr. Bayley's Minute,—"The mass of miscellaneous business with which the courts in question for the most part are overloaded."

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at the same time, however, be made assistants to the magistrates, to prepare them for filling the latter office; nor can I perceive any reason why they should not be denominated register also, and intrusted with the office of registry of deeds and other miscellaneous duties which the zillah registers now perform, and for which no provision is made in Mr. Bayley's plan. At all events, I hold it to be quite impracticable that the zillah judge singly will be able to discharge, with any proper degree of efficiency, the burthensome duties which, under the plan as it stands, would be imposed on him. In this I do not lose sight of the further relief which the plan has in view, of transferring to the collectors of revenue the cognizance, in the first instance, of all summary suits for rent, which is the next and a most important subject for consideration. On this point it may first be considered, whether, with reference to the increased powers proposed to be given to the native tribunals, the system of summary suit, now allowed by our Regulations, might not be abolished, and all suits of the nature referred to, tried and decided as other civil claims, on a full investigation of their merits; open to one appeal of right, and a second on good cause shown, provision being at the same time made for empowering the courts, in any stage of the cause, to order summarily what may be necessary for securing the rights and interests of the parties, subject to the final award. In many of the cases wherein a summary suit or inquiry is now authorized, the investigation which the courts are frequently compelled to make, as for instance in cases of disputed boundaries or possession of lands, is sufficient to enable them to decide on the whole merits, the right as well as the fact. In others, where the investigation is less perfect, it is obvious that great injustice must be done by a hasty decision. If the injured party can afford the time and expense of a new trial, he is exposed unnecessarily to a double process, where one should suffice; if not, the system operates as a denial of justice, while the courts are overloaded by duty twice performed; though it is clear that the first investigation must have advantages which are partially or often wholly lost to the second. The absence or death of a material witness, and many other circumstances, may be fatal to a just claim, especially the lapse of time, which is always the more unfavourable in the ratio of its increase, to a true ascertainment of the facts on which the court has to decide. I am not aware that in any of the cases in which a summary suit is now authorized, the proposed measure would prove injurious. It supposes that the court should be vested with ample power to act as at present, according to the exigency of the moment, to attach lands or crops, to release them on proper security, or to do in fact, *pendente lite*, whatever may be required; but it provides only, that the suit shall not be thrown out of court upon a hasty and imperfect inquiry, when circumstances are favourable to a just decision, and brought in again, perhaps, years afterwards,* when the means of arriving at the true facts are partially or wholly lost to the parties and to the court; saving, at the same time, the parties and witnesses the harassment of double attendance, to which they are now exposed. If, however, objections should exist which do not immediately occur to me, and a summary action be deemed absolutely necessary, I can perceive no sufficient reason why the duty should not be transferred to the different tribunals, by which the case would be cognizable according to the value or amount at issue, if preferred as a regular suit. Thus distributed, the duty would be more expeditiously performed, especially in suits of smaller amount (by far the greater proportion), as they would be tried by the local moonsiffs. The relief, too, which this would afford to the poorer classes, in saving them the necessity of travelling to the sudder station, a distance of 50 or perhaps 100 miles, would be no trifling benefit, though it might be advisable to leave a discretion with the zillah judge, to order the transfer of any suits from one jurisdiction to another, especially on application by the ryot. At all events, as I have ever deprecated the encroachments which have of late years been gradually made on the principles of Lord Cornwallis's system, so would I still deprecate any further return to the mal-adawlut system; the reasons for the abolition of which, as set forth in the preambles to Regulations II. and III. of 1793, remain yet in full force, unanswered and unanswerable. Moreover, independently of the objection in principle to the union of judicial and revenue powers in one individual, I am satisfied that the numerous other avocations of the collectors would render it quite impracticable for them to discharge the additional duty with any proper degree of despatch. In a report from this court to Government, under date the 30th October 1816, it was observed that in the zillah of Burdwan alone, independently of zillahs Hoogly and Jungle Mehals, and part of zillah Beerbhoom, which were then included in the collectorship of Burdwan, the number of summary and regular suits relative to demands and exactions, or arrears of land-rent, instituted in a twelvemonth, viz. from the 1st July 1815 to the 30th June 1816, was as follows:—

Summary suits			2,655
Regular ditto, before the moonsiffs			1,439
Ditto in the zillah court			2,493
	TOTAL		6,587
In Nuddea, the number was	Summary		1,317
	Regular		390
	TOTAL		1,707
And in the 24 Pergunnahs	Summary		1,508
	Regular		547
	TOTAL		2,055

The

* I have known a regular suit instituted eleven years after the disposal of the summary action.

The following is an extract of a report from the commissioner of the 10th division now before the court, dated 31st October 1829.

Para. 16. "The want of a register is also much felt. There are now 389 regular suits pending on his file, and the collector has so much to do in his own department, that he cannot decide the summary suits sent to him with that despatch so requisite in such cases. At the end of September last, there were 268 suits referred to him: he made 52 returns; but the balance of arrears amounted to no less than 641 cases. Many of these might be decided with due despatch if a register was stationed at Arrah. The judge should, I submit, be directed to recall a considerable portion of these suits from the collector, otherwise a great delay in the administration of that branch of justice which especially calls for despatch will inevitably ensue, from the want of leisure on the part of the revenue authorities of the zillah."

A similar state of things no doubt exists in many other districts. If therefore the system of summary suit should be continued, and it should not be deemed expedient to distribute the duty in the manner above proposed, I would suggest the appointment of an additional sudder ameen or two, for the special duty of trying the suits referred to, as well as suits for the contested possession of lands or crops, with which they are frequently connected. Being under the immediate eye of the zillah judge, the power of issuing process of arrest would no doubt be less objectionable, than if intrusted to the local moonsiffs. This process cannot, I fear, be dispensed with, without endangering the rights of the zemindars. But as it is much abused and frequently made the instrument of oppression and injustice to the ryot, I think the rules might be modified, and the power of causing personal arrest restricted to cases in which proof should be exhibited *with* the petition of plaint, affording *primâ facie* ground to presume the justness of the demand. In preferring his claim, the zemindar must well know, and can have no difficulty therefore in exhibiting the kooblooliut or other documentary proof, on which it is to be maintained, as well as filing a list of the witnesses required to substantiate it, at the time of instituting his suit equally as at any subsequent stage of the proceeding. If this were done, subpœnas might issue for the witnesses at the time of serving the process of arrest on the ryot, and if the latter should still dispute the demand, the plaintiff's case would be fully before the court before the ryot was thrown into gaol, and might in many instances be disposed of without delay; or if necessary to postpone the decision, some ground would be shown for the ryot's detention, instead, as at present, of his being committed to gaol on the mere application of the zemindar, and perhaps kept there for months, being in the mean time ejected of his tenure, and his crops and property distrained and sold, so that he is turned out of prison a beggar, soon to be brought in again as a robber. The powers which the landholders are allowed to exercise for enforcing payment of the rents due to them from their ryots are no doubt necessary to enable them to discharge with punctuality their own obligations to Government; but this renders it the more necessary, for the protection of the ryot, to impose every possible check against an abuse of the power; and every measure which can tend to expedite the decision of the suit must of course conduce to the attainment of this object. It remains to consider those parts of Mr. Bayley's plan which have relation to the criminal courts. In the supposition then that the provincial courts are to be abolished, while the old courts of circuit are no longer in existence, it appears to me that we may go further in the general break up of the old and the remodel of a new system. In this view, and provided sufficient aid be afforded to the zillah judge, I would propose the abolition of the present commissioners of revenue and circuit, transferring the controlling authority in the former department to the Board of Revenue for the Lower Provinces, or to a separate revenue commissioner for each division in Calcutta, Dacca, Moorshedabad and Patna, (giving each commissioner the full powers of the Board) and to such number of commissioners as may be necessary for the unsettled districts in the western divisions, including Benares, and making over the circuit duties to the zillah judges, constituting the latter superintendents of the criminal as well as civil courts of their respective districts, and raising the salary of the joint office to 30,000 rupees per annum. I am sensible of the objection to which such a plan is liable, in placing the controlling authority in such close connexion and intimacy with the controlled; but this already exists in a great degree under the present system, as well as the further objection (which is admitted by Mr. Bayley) of vesting the controlling power in one individual, instead of a collective court, as provided under the old system. It seems, however, that measures must be framed in adaptation to our means, even at some sacrifice of principle; and if this be admitted, there cannot, I think, be a question as to the superior advantages which will be derived from the arrangement of placing the duties and powers of the circuit commissioners in the hands of the local judge.

1st. It would induce a considerable saving of expense in the abolition of several of the offices referred to, as well as their establishments.

2d. It would materially expedite and improve the administration of criminal justice, in providing for a monthly session in each district, and the immediate trial of all cases committed by the magistrates.

3d. It would prove an incalculable benefit and blessing to the people, in saving hundreds, I should say thousands annually, from the necessity of a double, or some times treble attendance on our courts.

4th. It would diminish in a very extensive degree the enormous expense to which the Government is now subjected, on account of diet-money to prosecutors and witnesses, who are sometimes detained for a long period at the sessions.

5th. It

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5th. It would provide for immediate appeal and redress against the acts and orders of the magistrates, and the other inferior criminal courts; which the present roving commissioners, with the overburthened duties they have to perform, are but ill-calculated to afford.

6th. This facility of appeal and check over the conduct of the subordinate courts would induce greater care and circumspection, and consequently greater regularity and correctness in their proceedings, which they well know are subject to immediate revision.

7th. The zillah judges, by a fixed and long-continued residence, would have the means of acquiring a thorough knowledge of the state of their respective districts in every department, and of the character, habits and usages of the people subject to their jurisdiction; a knowledge which cannot possibly be afforded, to any useful extent, by a cursory visit of a few days.

8th. The anomalies which occasionally arise in the practical operation of the present system, and which must always exist in the union of revenue and judicial powers, would be avoided.

9th. Facility would be afforded of immediate reference to the magistrate and his records, for explanations on various points which arise on an appeal; and the necessity which now exists of transmitting the voluminous and bulky proceedings of the magistrates from one district to another would be obviated.

The relief, too, which this would afford to the post-office department, independently of a saving of expense, and avoiding the risk of loss or injury to the proceedings, would be considerable.

10th. We should have judicial officers to perform judicial functions, and *vice versâ* in the Revenue department; and not, as under the new system, men thrown suddenly from one branch to another, and called upon to discharge highly important duties of which they never had a day's experience, and are utterly ignorant of every rule and regulation under which they are to act.

With regard to the office of magistrate, it should, I think, in all cases be made a distinct and separate appointment, wholly unconnected with the revenue. There is no district in which, if he does his duty, he will not have ample to occupy his whole time and attention; frequently, indeed, requiring the aid of one or more sudder ameens, in addition to the European assistant. The collectors, too, should be confined to their own immediate duties, which are as much as they can well perform. Upon a general consideration of the whole subject, I venture to suggest the following outline.

Moonsiffs.

Such number as may be required, with reference to the state of civil business in each district. The number at present employed appears unnecessarily large and unequally apportioned: for instance, in Burdwan there are 13 moonsiffs, and 5,341 suits were instituted during the year 1828; while in Midnapore there are 24, though the number of suits instituted in the same period was considerably less, viz. 3,133. Again, in Backergunge there are 14, and only 470 suits were instituted; and in Mymensing 13, though the number of suits was 6,063. For a few of the larger districts probably 12 or 14 may be required; but in general 8 or 10 would be sufficient, care being taken to equalize their jurisdictions as far as possible. If the salary, inclusive of establishments, be raised as I have suggested to 200 rupees per month, they might be intrusted with power to receive, try, and decide any suits for an amount or value not exceeding 1,000 rupees, limitation of action in suits for money being fixed at six years. In all other cases, as under the rules at present in force, limitation of appeal to the zillah judge, six weeks, with discretion to extend on sufficient cause shown for the delay, to execute their own process and decrees.

Sudder Ameens.

Of these I think two classes might be established; the one at a salary of 350 rupees, to be employed *principally* in hearing appeals from the moonsiffs, with such original suits as may be referred by the judge, for an amount not exceeding 2,000 rupees. The other to receive a monthly salary of 500 rupees, with original jurisdiction in suits as far as 5,000 rupees, and to be employed *principally* in the trial of those suits, but authorized also to hear appeals from the moonsiffs, on reference from the judge. Of the former class, three might be required in some districts, but two would generally suffice; and of the latter, a single individual would be equal to the duty, with very few exceptions.

Register of the Civil Courts.

To be employed on such miscellaneous duties as the zillah judge may deem it proper to intrust to them with reference to their qualifications. After a certain period of service, say five or six years, and on special report by the zillah judge to Government, to be intrusted with higher powers, according to their capacity and fitness; and the salary to be gradually increased at the discretion of Government, from 500 to 1,000 rupees per month, in proportion to the nature of the powers and duties confided to them.

Magistrates and Joint Magistrates.

Jurisdiction and powers under the rules now in force, the office being always a distinct and separate appointment.

Assistants

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Assistants to Magistrates (Europeans).

Similar rules to be observed as above proposed with regard to the office of register; not to be intrusted with authority to pass sentence of corporal punishment by stripes, unless specially empowered by Government in the manner there stated.

Assistants to Native or Sudder Ameens.

In districts requiring the additional aid of these officers, the appointment should be distinct, and their duties confined to the criminal department. Being under the immediate eye of the magistrate, they might be empowered to pass sentence of fine as far as 50 rupees, and imprisonment not exceeding six months; but no cases should be referred to them excepting such as they may be competent to dispose of, especially if, from the nature of the offence charged, the accused be liable to commitment for trial at the sessions. The salary of these officers may be fixed at 200 rupees, inclusive of establishment.

Zillah Judges, or Superintendents of Civil and Criminal Courts; salary 2,500 rupees per mensem.

In their civil capacity to hear appeals from the decisions of moonsiffs and sudder ameens, with a second appeal, on special grounds, in cases decided by the latter, on appeal from the former, always retaining on their own file a sufficient number of regular appeals from the moonsiffs, as may be necessary to enable them to form a judgment of, and to exercise a due control over, the conduct and proceedings of those officers. To be empowered, on sufficient cause shown by either party, to transfer suits and appeals from one tribunal to another. As criminal judges, to hold a monthly session for their respective districts, with discretion to try cases at any time during the month, immediately on the commitment by the magistrate. In such trials and in all other matters to perform the same duties and exercise the same powers as are vested in the present commissioners of circuit, reporting periodically or specially on matters of police directly to Government, and half-yearly to the Nizamut Adawlut on other points, in the manner prescribed by Section xii. Regulation IV. 1797.

Provincial Courts, six; salary 3,000 rupees per mensem.

Each to consist of two judges; original jurisdiction in suits above 5,000; appeals on special grounds from decisions of the zillah judge, in cases decided by the latter, on appeal from original decisions of moonsiffs and sudder ameens. Each judge to exercise the full powers of the court.

Sudder Dewanny Adawlut, six Judges.

Appeal of right in cases decided originally by the provincial courts; but in these, as well as in all other cases, to be empowered on petition against the decisions of the zillah judges and provincial courts, to correct what may be obviously defective or erroneous on the face of the decree, or as shown by documents exhibited with it, without calling for the proceedings or admitting an appeal *pro formâ*. To call for explanations when necessary to order further investigation and revisions of judgment, when the decision may have been passed evidently on insufficient inquiry, requiring a report of such revised judgment, or leaving the party to appeal against it according to circumstances. In particular cases, where strong grounds may exist, rendering it necessary or advisable that a final judgment should be passed by this court on the whole merits, an appeal to be admitted and the case decided as at present, on a review of the proceedings and in the presence of the parties. Experience has satisfied me of the necessity and expediency of enlarging the powers of the court in the manner above proposed, and these powers might, I think, be safely intrusted to single judges of the court. A few instances will suffice to show the justness of the general position.

In a suit instituted under Regulation II. 1819, the zillah judge proceeds to trial and judgment without any reference to the collector, as prescribed by the first clause of Section xxx. of that enactment; the terms of which are imperative, requiring that the judge *shall* make such reference in the first instance. The court of appeal has equally omitted to advert to the rule. Both judgments therefore are obviously, on their own showing, illegal and invalid. On this ground a special appeal is admitted by this court. Why then should it be necessary in such a case as this, to admit an appeal *pro formâ*, to call for the proceedings; to require the attendance of both parties; to decide years* afterwards what might be determined on the moment without the slightest risk of injustice to either party? and why also should the opinions of two judges be required to correct such an obvious defect?

In another case which has recently been decided by the court, it appeared that the decrees of the zillah judge and provincial court had both been founded on the report of an ameen; to the truth of which the latter had not been sworn, as required by Section xvii. Regulation IV. 1793.

A special appeal was admitted on this sole ground in 1826, two judges being required for such admission, and the decrees in the lower courts being positively wrong on their own showing; that has been done in 1830, four years afterwards, after calling for the proceedings and requiring the attendance of both parties; again by two judges, which might have been done in the first instance by one in ten minutes. The same reasoning applies equally to cases in which the decision wholly turns upon a point of law; where the decree upon its own showing is evidently erroneous, either as being directly and obviously in opposition to the law, or on disputed points, when these have been settled by well established precedents.

Again,

* I have had cases of this nature before me, both in this and in the provincial court, which had been pending for a period of three or four years.

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Again, if the decision ought to have been founded upon matter of fact, and evidence and an erroneous ground has been assumed, the defect might be corrected, by pointing out the error and showing the proper course of proceeding. Finally, however erroneous and unjust a decision may be, yet, if it has been passed on a *second* appeal by any of the lower courts, it *must*, under the present rules, be allowed to stand uncorrected; this court having no authority to interfere in such cases.

In all these and many other cases, the power of correction might, I think, be safely trusted to a single judge, particularly in proceedings of a summary nature, where the case is open to further investigation on a regular suit. The same principle might also be applied to the Nizamut Adawlut, where the opinion of the single judge may be in favour of the prisoner, either for acquittal or mitigation of punishment. I would further suggest a modification of the rule, which requires a reference to the Nizamut Adawlut, in cases wherein the commissioner of circuit may differ in opinion with the law officer, in regard to one of many prisoners included in the same trial.

Clause 2. Section vi. Regulation LIII. 1803.

In such cases there seems no reason why this court should be required to give an opinion, except as regards the prisoner, in respect to whom the reference is made. In a case, for instance, of dacoity, including 30 or 40 prisoners, if the commissioner differs only as to one of the prisoners, and the sentence is within his competency as to the rest, it should merely be necessary for this court to decide as to the former, unless there should appear particular reason to interfere with regard to the whole. In such cases, however, execution of the sentence of the commissioner should be suspended as at present, pending the reference to this court.

15th January 1830. (signed) *M. H. Turnbull.*

MINUTE of Mr. *Sealy.*

MY sentiments regarding the advantages to be derived from the establishment of a court of Sudder Dewanny and Nizamut Adawlut in the Upper Provinces are unchanged. In my opinion, it would not merely give satisfaction to our subjects in those provinces who have occasion to resort to our courts, but would be hailed by all classes of the people as the greatest boon that could be bestowed upon them. Should any doubt on this subject exist, it would be removed by calling for the opinions of the public officers at present employed in those provinces upon it. That this measure will be resorted to sooner or later, I entertain not the slightest doubt.

2. When our opinions were last called for on the expediency of this measure, it was generally understood that the principal objection to it that had previously existed had been removed, namely, that our finances would admit of its adoption without interfering with the other branches of our judicial system. Our circumstances are now changed; it is publicly acknowledged that our finances are reduced to the lowest ebb, and that no new measure of a costly nature can be adopted, but by the sacrifice of some part of our present establishment. On this ground, it is now proposed to form a new sudder court in the Upper Provinces, at the expense of the present provincial courts of appeal. Desirable as I still think an additional sudder is in every point of view, I would not purchase it at this price.

3. It is the miscellaneous business in the sudder that is found so heavy and oppressive as to prevent that court from deciding a greater number of suits than it does at present. If the provincial courts are abolished as proposed, the miscellaneous business which has hitherto been carried to four of those courts, and which has, as admitted, occupied so much of the time of those courts as to interfere materially with the reduction of their regular files, will now be transferred to this court. It will be impossible to get through this additional load of business, putting out of the question the appeals, regular and special, from the zillah and city courts, which may be expected to be very numerous. In fact, the miscellaneous business, which cannot be put aside, will engage the whole of our time, and our regular suits will, of necessity, be totally neglected. The new sudder court will have to contend with the same difficulties.

4. The zillah and city courts would not, I fear, be found more effective. Their inability to decide, with any common promptitude, suits to the amount of Rs 5,000, induced the Government to invest the sudder ameens with powers to decide suits to the amount of 500 and 1,000 rupees. I confess I am not sanguine enough to expect that those courts will now be able to keep down their files when loaded with suits to an unlimited amount, and at the same time to dispose of the appeals that may be made to them from the decisions of the sudder ameens.

5. In my opinion, the provincial courts cannot be dispensed with. At all events, I think it would not be prudent to abolish them until we see if the zillah and city courts can perform the duties that will devolve on them on the introduction of native courts with increased powers. If they cannot exercise a vigilant superintendence over the new courts, by promptly disposing of the appeals that may be made from their decisions, no one, I am sure, will wish to burthen them with additional duties.

6. To remove from our courts the charge now imputed to them of a denial of justice, and to remedy in part our inability to supply a sufficiency of European agency for the administration

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tration of civil justice, it has become absolutely necessary to enlarge the powers of our native courts. In those districts where the civil suits are so numerous as to make it hopeless that the European functionaries will be able to reduce their number with any common despatch, recourse must be had to this measure. But even in these cases I should consider it unadvisable to extend the powers of our native judges beyond the limit fixed by Mr. Bayley. To allow them to decide suits to an unlimited amount, as suggested, apparently, by the honourable Court, for one, I should consider not merely unadvisable, but highly objectionable, and likely to create general alarm, dissatisfaction and distrust amongst our native subjects. Some of them, certainly, will naturally enough be gratified at the chance held out of being selected to fill lucrative offices; but by far the greater portion of them, and especially those who have suits to institute, would prefer courts superintended by Europeans. Much as they may estimate the talents of some of their countrymen, they place greater dependence and trust on the established integrity of the European functionary, than they do on the advantage possessed by the native functionary, with reference to his more thorough and extensive acquaintance with their customs and language; and in introducing courts of justice to be superintended by natives with additional powers, it need not be observed that we ought to consult the feelings of those who are likely to apply to them.

7. It would be better to leave the moonsiffs as they are. They are, generally speaking, cazees of those portions of the districts where their courts are situated. Their offices are necessary to the wants of the ryots and the poorer classes of the people. They ought not to be tempted to neglect suits of small for those of larger amount; and it may be found that they are not exactly fitted for such responsible trusts as it is proposed to give them. The sudder ameens who are at present employed to decide suits to the amount of 500 and 1,000 rupees, might also be left as they are, and a superior class of sudder ameens appointed to decide suits from 1,000 to 5,000 rupees, to be selected as suggested by Mr. Bayley. This would admit of suits from 5,000 to 10,000 rupees being referred to the zillah and city courts, with every hope of their being quickly adjusted. All suits beyond that amount should remain in the courts of appeal, where they are at present.

8. Appeals from the decisions of the moonsiffs might be made to the sudder ameens of the first class, open to a special appeal to the zillah and city judges. But appeals from the decisions of all sudder ameens ought to be made to the zillah and city judges, open to a special appeal to the provincial courts; appeals from the decisions of the European functionaries remaining as they are at present.

9. The services of the junior part of the service might be made available on this occasion. The junior servants, after having been employed two years on the public service, might be allowed to decide suits to the amount of 100 or 200 rupees. They might be denominated Deputy Registers, Assistants to the Judges, or by any other name that may be preferred. Their powers should be extended as they display experience and judgment. As economy is the object in view, it is our interest to make use of them, as in whatever department of the public service in the Judicial line they may be employed, they must in some degree decrease the expenses of the state. Registers also of acknowledged judgment and experience might lend their aid in this way, if their powers were extended to those proposed to be given to the first class of sudder ameens, for I still hope that that office will not be abolished.

10. The offices of judge, magistrate and collector ought to be separate in each district. These offices can never be united with any hope of efficiency.

11. It must be kept in mind, that the people we govern are averse to all changes; that the changes already introduced in the Criminal and Revenue departments of the service have created considerable alarm and distrust in their minds; that any further changes must inevitably increase those feelings, and that, therefore, whatever changes it may now be deemed necessary to adopt, ought to be of a permanent nature, and declared to be so, with the view of allaying the excitement that prevails throughout the country on this subject, and above all, that every change that may take place must encroach on the system of Lord Cornwallis, whose memory and measures are cherished with affection and confidence by natives of all classes, more particularly by those of these provinces, whom he governed successfully and happily for so many years, and amongst whom he closed his earthly career, venerated and lamented.

31st March 1830. (signed) *C. T. Sealy.*

Mr. *Rattray's* Minute.

On Mr. Bayley's Minute, dated November 5, 1829, submitted by the judicial secretary to Government, Nov. 24, 1829.

The Minute in question has been submitted, with a request from the Right honourable the Governor-general in Council, that the Court will report their sentiments on the several suggestions which it contains for the improvement of the administration of civil justice. The wish is, I am quite satisfied, to elicit a free and candid expression of opinion, not upon these suggestions exclusively, but generally upon whatever does or may obtain, involving the great question of Judicial Administration. With this impression, I proceed.

2. The plan now proposed is that of superstructure to be raised upon a foundation ready and approved of, and to consider the one independently of the other would be palpably unsatisfactory and improper. The whole of Mr. Bayley's proposition rests upon the rules which have of late years been enacted, under which, a very large proportion of the Judicial administration of the country has been committed to the revenue authorities or to the revenue courts, under other titles, constituted for particular objects, in no connexion with, or dependence

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dependence on, the regularly established tribunals to which the people had before been accustomed to refer their real or imagined grievances.

3. The foundation then of the plan proposed must be carefully examined before a fair estimate can be formed of that which is suggested as suitable to be placed upon it. Long before the present question became me, I had deeply considered that upon which it is made to depend. The subject was forced upon my attention in a thousand ways in the course of official duty; and no day has passed that has not strengthened my conviction that the change from former practice and principle was devised in error, was viewed with universal dissatisfaction and distrust, and was so viewed as fraught with consequences which a people must dread and deprecate. What these are, I will ensure attention to by appealing to a higher authority to describe them: "The proprietors can never consider the privileges which have been conferred upon them as secure, while the revenue officers are vested with judicial powers, exclusive of the objections arising to those courts (of Mâl-Adawlut), from their irregular, summary and often ex-parte proceedings, and from the collectors being obliged to suspend the exercise of their judicial functions whenever they interfere with their financial duties; it is obvious, that if the regulations for assessing and collecting the public revenue are infringed, the revenue officers themselves must be the aggressors; and that individuals who have been wronged by them in one capacity, can never hope to obtain redress from them in another. Their financial occupations equally disqualify them from administering the laws between the proprietors of land and their tenants. Other security must, therefore, be given to landed property, and to the rights attached to it, before the desired improvements in agriculture can be expected to be effected. Government must divest itself of the power of infringing, in its executive capacity, the rights and privileges which, as exercising the legislative authority, it has conferred on the landholders. The revenue officers must be deprived of their judicial powers. All financial claims of the public, when disputed under the Regulations, must be subjected to the cognizance of courts of judicature, superintended by judges, who, from their official situations and the nature of their trusts, shall not only be wholly uninterested in the result of their decisions, but bound to decide impartially between the public and the proprietors of land, and also between the latter and their tenants. The collectors of the revenue must not only be divested of the power of deciding upon their own acts, but rendered amenable for them to the courts of judicature, and collect the public dues, subject to a personal prosecution for every exaction exceeding the amount which they are authorized to demand on behalf of the public, and for every deviation from the Regulations prescribed for the collection of it. No power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed, or the value of landed property be affected. Land must in consequence become the most desirable of all property, and the industry of the people will be directed to those improvements in agriculture, which are as essential to their own welfare as to the prosperity of the state."

See Preamble to Regulation II. of 1793.

4. So thought and spoke Lord Cornwallis, at once exhibiting the evil and its remedy. According to my ideas, this contains within its rules the true principles of justice, sound policy, and, if it be necessary to add, in distinction from other expediency, it was a system equally honourable and beneficial to the ruling power; while the subject regarded it, in gratitude, as a sure barrier against the invasion of his rights, an excitement to his industry, a protection to the fruits of his labour, and a consequent security for the fulfilment of the first wish of his heart, the continuance of his name and family in respectability and independence. These feelings involved others of paramount value to a wise government, good-will at all times, and loyalty and fidelity in those of trial and danger.

5. Without entering into a detail of the gradual encroachments which have of late years been made upon this, it is enough to turn to the enactments of these years,* and to observe that it has no longer an existence. It has been undermined and demolished, and with it has subsided the confidence, the respect and the affection, which had grown into life and flourished with it.

6. Upon the basement which has been raised piecemeal upon these ruins (requiring only the abolition of the provincial courts to be utterly complete), Mr. Bayley proposes to establish what he has submitted on this occasion; which is in substance an extension of powers to native judicial functionaries, and a second Sudder Adawlut for the supervision and control of the courts generally of the Upper provinces.

7. Upon the expediency, or rather necessity,† of the first of these measures being sooner or later adopted, under this or some other form and arrangement, there does not appear to have been two opinions for some years past; and (keeping the groundwork out of mind) except that I deem the powers proposed to be conferred too limited, and the salary (most objectionably

Regulation	II.	- - -	1819	Regulation	V.	- - - 1825
—	I.	- - -	1821	—	III.	- - - 1828
—	VII.	- - -	1822	—	IV.	- - - 1828
—	I.	- - -	1823	—	I.	- - - 1829
—	XIV.	- - -	1824			

To these, with reference to the union of the offices of magistrate and collector, and to the distressing effects of its operation, may be added Regulation XV. of 1824; the rescission of which I again would respectfully urge.—*See* Minute of February 13, 1829.

† It is remarkable that the natives themselves (with exception to the candidates for office) are decidedly adverse to any extension of judicial powers being allowed to their fellow countrymen.

tionably burthened with the expense of the establishment) inadequate, I have no material objection to offer.* But however all this may tend to what appears to be the grand object in view, the disposal of the greatest possible quantity of work upon the cheapest or most profitable terms, it will not, I am confident, make the return anticipated. The *principle* must be sound and good, before sound and good can emanate; and founded as this system will be, I will venture to predict a return in no long period to that which has been subverted; and that unless made spontaneously, this will be forced upon the Legislature by results which shall show how just the arguments were which were disregarded as futile, or opposed as prejudicial.

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See para. 16 and note * to ditto.

8. I shall now proceed to state what occurs to me upon the suggested establishment of a second Sudder Adawlut. The proposal is to form this in and for the Upper provinces, leaving the business of the Lower provinces to be disposed of by the present sudder court in Calcutta.

9. I think the objections against such a measure many; and the presumed advantages altogether imaginary. In the first place, the Sudder Adawlut has been the one supreme court of the country from the first introduction of a regular judicial system, and has grown to be regarded by all classes as their tribunal of last resort, towards which they might look with that confidence which, from many circumstances, it was calculated to, and did, inspire; amongst others and not the least, from its being fixed in the capital and holding its sittings under the eye of the Supreme Government. To this may be replied, that the court of the Upper provinces being made the court of last resort for those provinces, will be as much the sudder or supreme court within its jurisdiction, as the present court now is; and that with properly qualified judges the business will be as well conducted, and the confidence as great as can obtain at the Presidency. I deny the whole of this; the *mofussil* court will never be regarded by the native community as the sudder; the business will not be so well conducted, and were it infinitely better, they will never look upon those who conduct it as other than subordinate functionaries, and will never be convinced they have received that justice which they might have obtained had the judgment issued from the one supreme tribunal, the Sudder Adawlut of the land. I do not maintain this on my own opinion merely; the rumour has for some years repeatedly been abroad, that such a measure was in agitation, and as often has it been in contemplation to avert the adoption of it, by a general appeal to the Government against it. At this moment, the knowledge of the renewed proposition by Mr. Bayley is more or less known, and the sentiments which have been expressed tally in all respects with those I allude to, as connected with former occasions in other parts of the country, and confirm what I before understood to be the popular feeling upon the question. It may be urged that this is of no consequence, admitting it to be the fact. For those who would so argue I have no reply; I am quite sure a little reflection will dictate a better and more liberal sentiment.

10. I have said that the business would not be so well conducted elsewhere as at the Presidency. I spoke from what I believe to be human nature, under any and all circumstances. I think the best judge that ever sat on a seat of justice would perform his duty, I will not say worse, but less thoroughly well, elsewhere than where the public might at all hours walk into his court and scrutinize his performance of his duty. If this public be that of the metropolis, any where, the advantage is increased, and in this country we have no public beyond the metropolis; *there* only are those whose opinions will be openly expressed, and there only is the Government, the crowning security that what is expected shall be performed.

11. Another objection is, the contradiction and consequent confusion that must ensue, in the construction given to the same points of law, left doubtful and open to opinion in the two courts, and the vexation and dissatisfaction which must attend all trials in these courts, where the decisions dependent upon such construction differ. This could only be remedied by references from either court to the other, and such a necessity, with the delay attending it, might of itself be deemed sufficient to negative the proposal.

12. Mr. Bayley observes, that "however effectual the control of the Sudder Dewanny Adawlut may prove at the Presidency, without the intervention of the provincial courts," which are, it seems, to be totally abolished, "over the local judicial authorities within the limits of Bengal and Behar, it cannot be exercised with due effect at remote stations; and insulated as those authorities are now become, the immediate superintendence of a tribunal of the highest class seems to be indispensably necessary." In answer to this, I would ask whether the present sudder court is better acquainted with the proceedings of, or has in the most distant degree more control over, the judicial authorities at Moorshedabad or Patna, than the same at Benares or Bareilly? Most certainly not; and to exercise such a superintendence as is here contemplated, that is, with an intimate individual knowledge of every local proceeding, two courts were, to all intents and purposes, as inefficient as one. Nothing less (in number and distribution) than substitutes, of some description, for the courts about to be abolished will ever answer this object; and I have not a doubt that this will ere long so manifest itself, that (I cannot imagine the substitute) the provincial courts themselves will again be what they are, or rather, have been. Judicial officers of the higher class

* A great increase in the number of sudder ameens and moonsiffs is, I presume, of course contemplated, and only not mentioned as being already provided for by Section lxi. Regulation XXIII. 1814, and Section ii. Regulation II. 1821.

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class should, I conceive, ever act in a body, assisting each other in questions of doubt and difficulty, and preventing injustice where error may, as error will, lie with the one, and be exposed and corrected by the many. Mr. Bayley admits that "under the former arrangement, the defects or omissions of one judge of circuit were, in some degree, neutralized or amended by his colleagues; while it is one of the disadvantages of the new system, that any deficiency in a commissioner cannot be so readily corrected." It is, indeed, and to what a degree the disadvantage extends, Mr. Bayley probably had no suspicion when this was penned by him. To afford the required correction is one of his motives to the establishment of a second sudder court. That it would not afford it, in a degree beyond what the present court now does, I am satisfied, and have endeavoured to prove the fallacy.

13. "A superior tribunal of the highest class, within reach of the petitions of the people, appears" to Mr. Bayley "the only mode of supplying that control which ought to be exercised." Now, the petitions of the people to the sudder court are appeals from decisions of two inferior courts, or, as it may be, against the judgment of the superior of the two, by which the award of the inferior shall have been set aside. It will not, I take for granted, be assumed, either that two concurring judgments are likely to have been given where any palpably gross injustice opposed them; and it is, I think, as little to be apprehended, that a judgment by one authority would be set aside by another, without at least some plausible ground of proceeding on the part of the latter. All I mean to advance is, that whether the final appeal against such decisions reach the sudder court in five days or ten, the difference to the party appealing is literally nothing. The appeal, whether regular or summary, cannot justly be attended to but according to its number on the file, and whether, meanwhile, it have been lying in the office, or in the post-bag on its way to it, seems perfectly immaterial. Interference with the lower courts, civil or criminal, is required only when on due inquiry they are discovered to have erred, and this is necessarily in strict connexion with, and dependent upon, what is here exhibited.

14. Any further facility to a personal attendance of the parties in appealed cases, I deem a very questionable benefit, and indeed rather likely to induce evil and inconvenience; evil, inasmuch as the first consequence would probably be intrigue and corruption amongst the officers of the court; and inconvenience, because if any additional evidence be required in a case, it must be taken in the zillah where the case was originally tried, and the party attendant on the sudder court must return thither, instead of being already on the spot to furnish it. It may be further observed, that the cases of the Upper provinces are not intrusted to foreigners and strangers to the people of those provinces, for I believe I may say, a full half of the pleaders of the present sudder are natives of them and Patna; so if there be any cause of complaint on this score, the people of Bengal have the same with those above; and yet the principal in a trial is very seldom present, although so many are residents of the immediate neighbourhood, and might attend without personal inconvenience.

15. Another and no weak argument still remains. The whole of the Upper provinces (i. e. Benares and Bareilly) do not furnish much above one-fourth of the labour which devolves upon the present sudder court. The regular appeals last year from them amounted to 46; while from the Lower there were 121, and the business generally is in the same proportion.* With this fact before them, I cannot suppose the Government will deem such an establishment necessary for the performance of the comparatively easy duty, which alone by such a measure would be provided for. In the course of a short period, the judgeships would be sinecures; and then a recurrence of inconveniences and vexations would attend all concerned in the abolition, which of course would follow. The addition of the Saugor division would (if I am correctly informed) add so little to the business of the court that it does not affect the question; a couple of hard-working supernumerary members added to the present court, for the trial of regular civil suits only, and having nothing to do with the miscellaneous or any other business of the court whatever but those suits, would reduce the file in 18 months † to a degree that would render the present court, certainly with *one* additional member, perfectly efficient, and equal to all it would thenceforth be called to a discharge of.

16. I have said that I anticipated a speedy return to the principles and to the system of judicial administration which has been subverted for what now prevails: I assuredly do. There was nothing before that was wrong in itself; the whole failure lay in the deficiency of hands to perform the work. If native agency had been resorted to before the machine became clogged as it now is, the existing accumulation never had occurred. As it is, a little ingenuity might provide for the disposal of the arrears, and then, why the aid to be derived

* Lest it should be supposed that the distance of the Sudder Adawlut is any bar to appeals to it, it may be as well to show what the fact really is. The total number of suits decided in the Western provinces, in the year 1828, was 38,933; in the Lower, 134,813. From the former, 46 appeals eventually reached the Sudder; that is, 1 in 846 decisions: from the latter, 121; that is, 1 in 1,114 decisions; so that the proportion of appeals from the Western provinces (as compared with local decisions) was above a fourth greater than from the Lower provinces.

† Decisions per mensem, by two judges, at 10 decisions each, 20; months, 18: total decisions in 18 months, 360. Number of suits pending on the 1st inst. 444.

derived from native functionaries should not avail under courts constituted with some trifling modifications, as formerly, I cannot perceive.* Where the circuits are too extensive, it would seem not difficult to reduce them, and with so large a portion of the civil business provided for, any number of circuit judges might be commanded, without the addition of expense beyond what *must* attend *any* effective establishment. Above all, I would divest the collectors of any powers of interference in judicial matters. They should be what their title implies, and that only. The plan now prevailing was tried before, and failed; and that it will again fail, the short trial now already made fully convinces me. Under the former system, the junior servants became gradually qualified for the discharge of duties which rose in importance according to their standing and experience. As it is, there is no school for them, and they must assume charge of whatever they may be destined to, without even the rudiments of what they will not only be expected to perform well themselves, but to have initiated their younger brethren to a due performance of.

Appendix, No. 4. (2.) Minutes of the Judges of the Sudder Adawlut.

17. In the absence of a better field for exercise (if the present system be continued), the *surishtah* might be made an introduction to the practice of judicial functions. They might preside there under the title of registers, superintend the examination of witnesses in both civil and criminal trials, learn much of the detail of office by the preparation of cases pending for submission to the court, and where such superintendence might be deemed advantageous, be deputed to execute decrees and orders at a distance from the sudder station: but these are but sorry avocations after all.

18. It is generally understood and believed that another plan has been prepared by a public functionary, and is now in course of submission for the consideration of the Supreme Government. This is said to contain a proposal that the Government should hold a full control over, and its members direct the administration of civil justice, the Sudder Adawlut being subordinate and incapacitated from passing any judgment that shall not be open to revision and reversal by them; in other words, that in judicial matters, which may be said in the present instance to involve every thing that can affect the people, the ruling power shall be one of absolute despotism. Any thing more irreconcilable with the acknowledged principles of common equity could not well have been devised, and I can only hope that the suggestion will meet with the rejection it deserves, without the interference of any other agent than its own demerit. As, however, it will doubtless be submitted under the cloak of some specious argument and show of expediency, it may be proper to observe that the same evil did once exist before,† but it was regarded as so mischievous, that it was crushed and abandoned, as all supposed (till this revival undeceived them), for ever.

19. In 1805, Marquis Wellesley "put the keystone to the fabric of policy and justice," by an act which declared that "to ensure to the people the permanent enjoyment of just laws duly administered, the separation of the judicial from the executive authority, in all their respective branches and gradations, should be carried into full and complete execution, both in form and practice;" and the judges of the Sudder Adawlut be thenceforth "civil covenanted servants of the Company, not being members of the supreme council." This is at the present hour, and this, more particularly with advertence to the changes which have been and are about to be made in the constitution of the other judicial tribunals of the country, it is devoutly to be hoped it may be permitted to continue.

Harington's Analysis.

20. In the plan alluded to, it is not proposed that any member of the Government should sit as a judge in the Sudder Adawlut. The Government, without such outward form, are to have the power of finally determining the judgment in all cases; but as it were folly to suppose they could find time to revise a twentieth part of the business disposed of by the court, the intention must be that particular cases only should come under revision; those of course in which they themselves are a party, or by decisions in which their interests may be affected.

21. With reference to this and various other projects that have latterly, from time to time, sought adoption, I beg to quote a few observations from Sir Walter Scott's Life of Napoleon Buonaparte, and with these I respectfully conclude the subject. "The system now promulgated" (says Sir Walter, speaking of one of the many systems formed and abandoned during the French Revolution) "had the blemish attached to it of being totally new, and unsanctioned by the experience either of that or any other country; it was a mere experiment, the result of which could not be known until it had been put in exercise, and which, for many years at least, must be necessarily less the object of respect than of criticism. Wise legislators, when lapse of time, alteration of manners, or increased liberality of sentiment require corresponding alterations in established institutions, are careful, as far as possible, to preserve the ancient form and character of those laws, into which they are endeavouring to infuse principles and a spirit accommodated to the altered exigencies and temper of the age. There is an enthusiasm in patriotism as well as in religion. We value institutions, not only because they are ours, but because they have been those of our fathers; and if a new constitution were to be presented to us, although perhaps theoretically showing more symmetry than

* In the original draft of these observations, I had introduced in detail the various modifications which suggested themselves, as tending to partially obviate the objections I entertained to the plan submitted by Mr. Bayley; but unable to regard the foundation upon which it would seem the settled purpose of Government to erect any that may be adopted as other than unsound and delusive, I confess I was little satisfied with my intended offering, which, with reference, too, to what I have since seen recorded by my colleagues, I have withdrawn as superfluous.

† Though not by any means to the extent now proposed to establish it.

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than that by which the nation had been long governed, it would be as difficult to transfer to it the allegiance of the people, as it would be to substitute the worship of a Madonna, the work of modern art, for the devotion paid by the natives of Saragossa to their ancient palladium, 'Our Lady of the Pillar.' And again, it is with laws as with mechanics, ingenuity is not always combined with utility. Some one observed to the late celebrated Mr. Watt, that it was wonderful for what a number of useless inventions, illustrated by the most ingenious and apparently satisfactory models, patents were yearly issued; he replied, that he had often looked at them with interest, and had found several, the idea of which had occurred to himself in the course of his early studies: 'but,' said he, with his natural masculine sagacity, 'it is one thing to make an ingenious model, and another to contrive an engine which shall work its task. Most of these toys, when they are applied to practical purposes, are found deficient in some point of strength or correctness of mechanism, which destroys all chance of their ever becoming long or generally useful.' Some such imperfection seems to have attended the works of those speculative legislators, who at that period framed the ephemeral enactments of their code. However well they looked upon paper, and however reasonable they sounded to the ear, no one ever thought of them as laws which required veneration and obedience. Did a rule preclude a desired measure, to break it down or leap over it was the unhesitating practice; another was always devised applicable to circumstances, and before it the theory of the system was uniformly made to give way."

December 16th, 1829. (signed) *R. H. Rattray.*

(3.)—COPY of a LETTER from the Secretary to the Governor-general, to the Deputy Secretary of the *Bengal* Government, dated 26th January 1831.

(3.) Letter to the Deputy Secretary of the *Bengal* Government, 26 Jan. 1831.

Sir,

I AM directed by the Right honourable the Governor-general to acknowledge the receipt of your letter, dated the 10th instant, with the Report of the Finance Committee, and the Minutes of the honourable the Vice President and Mr. Blunt, on the question of substituting individual agency for that of collective Boards.

2. Those papers are herewith returned, and I am at the same time directed to forward to you, for the consideration of the honourable the Vice President in Council, the accompanying copy of a Minute recorded by the Governor-general on the same subject, and to suggest that that Minute, together with the whole of the documents relating to it, be transmitted to the honourable the Court of Directors, by the earliest convenient opportunity.

3. The Letter and Minutes of the Finance Committee which were received with your letter, to the address of Mr. Secretary Prinsep, under date the 23d November last, are also herewith returned for the same purpose; and I now proceed to communicate, for the consideration of the honourable the Vice President in Council, the sentiments of his Lordship on the several points adverted to in these documents. It will be convenient to follow the order of Mr. Mackenzie's suggestions, that gentleman having entered more into detail than his colleagues.

4. The first twelve paragraphs of Mr. Mackenzie's Minute are occupied in arguing against the impolicy of any arbitrary separation of the Judicial and Revenue departments. His Lordship is disposed to concur generally in the reasoning which has been employed in the discussion of this question; but it has been mixed up with the higher and more important consideration of the interference which should be exercised by the executive Government in the judicial administration of the country, though there does not apparently exist any necessary connexion between the subjects.

5. The Governor-general finds it difficult to reconcile to himself a concurrence in the view which Mr. Mackenzie has taken of this subject. In the judgment of his Lordship, the preamble to Regulation II. 1801, which declares "that it is essentially necessary to the impartial, prompt and efficient administration of justice, and to the permanent security of the persons and properties of the native inhabitants of these provinces, that the Governor-general in Council, exercising the supreme and legislative executive authority of the state, should administer the judicial functions of the Government by means of courts of justice, distinct from the legislative and executive authority of the state," contains a self-evident and unalterable truth.

6. His Lordship is, indeed, inclined to think that the evils which Mr. Mackenzie has so forcibly described as flowing from the absence of control over the chief judicial authorities, have no existence but in the theory which he has adopted. In the selection of honourable, intelligent and experienced individuals to occupy the benches of the supreme court, the Government will always have sufficient security against any abuse of the important trusts which are delegated to those authorities.

7. Practically speaking, his Lordship would ask what embarrassment has arisen, or what mischiefs have resulted from the existing system? and to apply the same sound test of practice, what degree of interference could the executive Government possibly exercise, consistently with a prompt and efficient award of justice, or without abandoning the continued claims to its attention of the other more paramount, because more pressing affairs of sovereignty?

8. That the ruling power should occasionally interfere in its legislative capacity to declare the law where it has been misinterpreted by the functionaries whom it delegates, or to enact

enact new Regulations where such may be deemed expedient, is doubtless just and proper. Such a degree of interference has accordingly been exercised on various occasions by the Government; and while the power of so interfering is retained, and brought into active operation; while the means of punishing sloth, incapacity or wilful error, by removal from office, rests with the Government; while individuals are selected for the highest judicial office, in whom qualities the opposite of these may fairly be expected to be found; men with whom there can exist no conceivable temptation to deviate from the path of rectitude, but on the contrary, every motive to an energetic pursuit of it; his Lordship is slow to believe that a more jealous and inquisitorial superintendence of the proceedings of the judicial authorities is requisite, either to the interests of the Government or to the welfare of the people.

9. The Governor-general, indeed, does not distinctly comprehend the nature of the interference which Mr. Mackenzie would recommend. He seems to deprecate intermeddling with individual cases; and for purposes of general control, the powers which the Government reserves to itself appear to be abundantly ample.

10. But though his Lordship is forcibly impressed with a conviction of the inexpediency, nay, the impracticability of efficient interference by the executive with the proceedings of the judicial authorities, he is disposed to concur in the reasoning which has been urged in favour of uniting the superintendence of the Revenue and Judicial authorities, in those provinces where the public demand is yet unadjusted.

11. Unity of purpose is there essentially necessary: almost every fiscal question that arises is connected with judicial investigation. In such a state of things, it is particularly desirable that men's minds should not be harassed by conflicting decisions; and that the Government, in framing rules for the future administration of these remote dependencies, should have the benefit of that efficient aid, and that accurate knowledge of details, of which the acquisition is facilitated by a concentration of the powers and duties of both departments.

12. The Governor-general approves also the proposition of uniting the powers of magistrates and collectors in those provinces, whenever it may be practicable to do so with reference to the state of business, and he will instruct the Sudder Board to take measures for ascertaining in what districts the union can immediately be effected, supposing an efficient deputy to be appointed in each case. The determination with respect to each district must of course depend in some measure on the means which may be presented of employing the officers who may be displaced by the union. In some instances it will doubtless be found that the place of a collector or magistrate is temporarily filled by a junior officer, who may be at once conveniently appointed to be deputy in both departments.

13. Mr. Mackenzie admits that the judges of the several districts should be kept distinct, but he seems to be decidedly of opinion that they and the collectors should be placed under a common superior, and that they should be trained by service in the Revenue line. In the first suggestion, the Governor-general is disposed to concur, as far as regards the unsettled provinces; and the second is, in his judgment, universally expedient.

14. His Lordship fully concurs, also, as to the propriety of uniting the office of tehsildar with that of thannadar, in those districts where it may be resolved to unite the offices of magistrate and collector; there seems no reason why the union of the subordinate functionaries should not immediately take place, leaving the arrangement for equalizing the salaries of those officers, and augmenting those of the serishtadars, (for which a plan has been submitted in the Report of the Finance Committee, to be adverted to presently,) to be carried into effect as vacancies may arise, and funds may accumulate.

15. In many instances the present thannadars may be entitled to consideration, and it may be proper that they should not be altogether excluded from employment. It is possible that some of them may be fit to execute the office of tehsildar, as well as, or better than, the present incumbents, or at all events that some provision may be made for them. It has occurred to his Lordship, that in other cases, the deserving men among them may be retained in office as subordinate to the tehsildars, on their present salary; their existing allowances not forming any part of the fund which the committee have calculated upon for raising the salaries of the collectors' serishtadars. These however are questions of detail, which must be considered individually; and this and the 12th and 14th foregoing paragraphs, will be sent to the Sudder Board, in order that in those districts where they may recommend the immediate union of the revenue and magisterial duties, they may also suggest, in communication with the local authorities, what minor arrangements may be necessary for carrying into effect the union of the offices of tehsildar and thannadar.

16. The question as to the best means of improving the condition of the thannadars in the Lower provinces, adverted to in the 12th paragraph of Mr. Mackenzie's Minute, his Lordship directs me to recommend to the earnest consideration of the honourable the Vice President in Council.

17. In the 13th paragraph of Mr. Mackenzie's Minute, various subjects are touched upon. His observations relative to the existing system of police are very general, but his Lordship is quite satisfied of the soundness of his views as to the effect upon the people of our interference in minute matters; offences not involving any violent breach of the peace or other serious consequences ought certainly to be left unnoticed, if, as there is too much reason to apprehend is frequently the case, the process resorted to for their suppression is productive of much more injury to the people than the offences themselves. This principle should, in

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the opinion of his Lordship, be always kept in view, lest our impatience of one evil should beget others of more grievous consequences to the people.

18. The definition which Mr. Mackenzie has proposed of the relative duties to be performed by the magistrates, collectors, sub-collectors, their deputies and assistants, appears, so far as it goes, to be unobjectionable, and it would seem proper that those officers should be exempted as much as possible from duties of a judicial description.

19. As to the impolicy of employing irresponsible individuals on a miserable pittance, his Lordship fully concurs; and he approves Mr. Mackenzie's reasoning in favour of increasing the salaries of the head native officers of the collectors' establishments. As to the injustice of excluding the natives of the country from all offices of trust and emolument, there cannot, he should hope, at the present day, be but one opinion.

20. The subject of the 13th paragraph will be adverted to in noticing the report to which Mr. Mackenzie alludes.

21. The Governor-general entirely approves the scheme delineated in paragraphs 14, 15, 16, 17 and 18, for the immediate control of the magistrates and collectors by commissioners of revenue and police, as well as for the powers to be exercised by those officers, and the sphere of their control. The question as to the extent of judicial authority which should be exercised by those officers and their subordinates, is admitted, however, to be one of some difficulty. The 18th paragraph of the Minute will be transmitted to the Sudder Board, who will be requested to submit their sentiments on the question, and to define as accurately as possible, all the cases in which, generally or specially, the collectors should exercise judicial authority; having in view at once the just demands of the state, and the fair expectations of the people; the punctual realization of the revenue, and the prompt adjustment of disputes connected with the land from which it is realized.

22. His Lordship is not aware either that there would be any objection to adopting Mr. Mackenzie's proposition, that copies of all decrees regarding lands in the unsettled districts should be sent to the commissioner, who should be authorized to certify to the sudder court for revision any decision that may appear to him to involve erroneous or mischievous principles. His proposition as to the occasional employment of the commissioners in the capacity of criminal judges need not be here discussed.

23. From the 19th to the 30th paragraphs of his Minute, Mr. Mackenzie treats of some parts of the plan which he would introduce for the due administration of civil and criminal justice. The chief reform is the more extended employment of native agency. He argues at great length on the illiberality and folly of excluding the natives from the judicial offices, and in the generality of his sentiments his Lordship cordially concurs. He maintains, that a fair remuneration will always purchase probity; and that in other qualifications, the natives cannot be considered as inferior to the European judge.

24. A native can be well paid too, he urges, at much less cost than an European judge. He assumes 500 rupees per mensem to a native in India to be as good as 2,400 *l.* per annum to an European; and that at an outlay of 3,000 rupees, as much business can be done as now costs 30,000.

25. He would assign to the native judges graduated salaries not exceeding 500 rupees, nor falling short of 100 rupees per mensem; and he would abolish altogether the mode of payment by fees. He would give them criminal powers in certain cases; and he would restrict the European principally to the duty of control, though he would not wholly deprive him of original jurisdiction; and he would give to some native judges the power of trying appeals from an inferior native court. To all these propositions the Governor-general sees no objection.

26. The European civil judge should, in the opinion of Mr. Mackenzie, be also criminal judge; and in that capacity have all the powers of the existing commissioners of circuit. They should have a higher salary than the collectors and magistrates, and should have passed through those grades. One, he thinks, would generally suffice for a population exceeding a million, though he thinks that an assistant judge should be retained in each division, to repair to any district where arrears might have occurred. He regrets the abolition of the registerships, which measure, however, he admits to be indispensable; and for the extent of the several jurisdictions, he refers to a schedule appended to the Minute.

27. So far for the inferior judicial agency. From the 31st to the 41st paragraphs, the higher judicial authorities are treated of. Mr. Mackenzie proposes to abolish the courts of appeal, and to admit of an appeal direct to the Sudder Adawlut from the zillah judges in the Lower provinces; and to the three sudder judges (who should also be sudder commissioners) in the Western provinces. The same to apply *mutatis mutandis* to the Nizamut Adawlut. His Lordship approves the principle of this arrangement, with the modification of it which will follow; but he decidedly objects to the proposition of requiring from the sudder court the transmission to Government of their orders before they are issued, and the other similar proposed means of control; and he totally dissents, as already observed, from the reasoning employed to prove the mischief of the present independent authority which is exercised by that court.

28. Mr. Mackenzie argues at considerable length, from the 42d to the 52d paragraphs of his Minute, on the great advantage of individual over collective controlling authorities. His Lordship has so fully stated his sentiments in the Minute which accompanies, and in the one alluded to in it, that it is needless to expatiate further in this place; and he merely deems

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deems it necessary to observe, that though he concurs in approving of the plan of sudder commissioners and sudder judges for the Western provinces, and thinks that they may be advantageously employed in controlling separate tracts of country, yet he is of opinion that they should be incorporated as a Board, at the same place, with the view of affording to the Government the benefit of their joint experience on all general questions of importance; and this principle he thinks should pervade the constitution of all supreme controlling authorities.

29. The 53d to the 60th paragraphs contain Mr. Mackenzie's notion of the establishments which should be entertained for judicial and fiscal purposes; of which it may be useful to furnish in this place an abstract.

30. He proposes that the country shall be parcelled out into circles and divisions. For the Western provinces he proposes three divisions, each consisting of two circles; the two first circles to consist of all the districts comprised in Delhi, Agra and the North Dooab; the two next, those in Central Dooab and Rohilcund; and the two last, those in Allahabad, Bundlecund and Benares. Each circle to have a superintendent of revenue and police, and each division a sudder judge and commissioner, being one and the same individual,* together with a certain number of judges, magistrates and collectors, joint magistrates and sub-collectors, deputies and native judges; varying in number as the districts comprised in each circle are more or less numerous, or more or less populous or extensive.

31. For the Central and Lower provinces, he proposes four divisions; the first to comprise the Central provinces; the second, the districts comprised in the former Moorshedabad court of circuit; the third, those in the Calcutta court of circuit and Cuttack; the fourth, those in the Dacca court of circuit. Each division to have a sudder judge; the two first to have each one commissioner of revenue and police; and the two last divisions each to have two commissioners of revenue and police, and, as in the Western provinces, each division to have a certain number of subordinate judicial and fiscal functionaries, varying according to the same principle. As superintendent of the whole revenue affairs of the Central and Lower provinces, one head commissioner of revenue and police, and one ditto for salt and opium and miscellaneous revenue. The district judges to hold the sessions, and to be styled civil and criminal judges; while the collectors and magistrates are to be divested of judicial powers (except in a few cases to be specified), and their duties to be confined to matters of police and revenue.

32. As minor police arrangements, the maintenance and establishment of village institutions are recommended; and the gradual introduction of trial by jury is also suggested, as a measure calculated to raise the moral condition of the people.

33. In the 66th and down to the 70th paragraph of his Minute, Mr. Mackenzie draws a very melancholy, and it is to be feared too faithful a picture of the state of things produced by the operation of our Regulations; and he attributes almost all the existing evils to our exclusion of respectable natives from offices in which they would be useful to us, and to our forcing upon the people artificial rules, which are quite unadapted to their condition; but his remarks are too general to admit of individual comment.

34. In a financial point of view, the arrangements recommended, after defraying the charges consequent upon the employment of additional native agency, is contemplated to yield a net gain of nearly eleven lacs of rupees per annum.

35. Mr. Mackenzie proposes that the Madras Civil Service, as far as regards the European part of it, should be remodelled nearly on the same principle. He proposes to have the whole of the districts under that Presidency made into three divisions, each division to have a sudder commissioner of revenue, who is also to be sudder judge; also two commissioners of revenue and police to each division; and the number of judges and subordinate fiscal and judicial officers to be employed, he estimates at 84; and the saving of expense, upwards of two lacs.

36. The same system is proposed for Bombay, with two instead of three sudder judges and sudder commissioners of revenue; one of the members of council being available for the performance of a portion of the sudder duty. It is proposed also to confide the judicial, fiscal and magisterial duties of Candeish to a single individual. With the native judicial system in force at Madras and Bombay, Mr. Mackenzie does not propose any interference.

37. He is of opinion that the European Civil Service at the three Presidencies might conveniently be diminished by 142, by which a saving of more than 14 lacs would be effected; and he recommends that the attention of the home authorities should be drawn to the subject.

38. Mr. Mackenzie concludes his valuable Minute by giving a comparative statement of the revenue and population of the three Presidencies, from which he draws the inference that no partiality has been shown to Bengal in the proportion of establishment assigned for the administration of this Presidency.

39. Mr.

* In the Letter, however, from the Committee, dated the 13th of December last, there is a material modification of this arrangement; in the 14th paragraph of which they propose one head commissioner of revenue for the Upper, and one for the Lower provinces, without adverting to judicial duties, or those of police. It will be seen, from his Lordship's Minute, that he considers a Board of Revenue for the Western provinces to be preferable to a single commissioner.

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39. Mr. Hill, in the Minutes recorded by him, concurs entirely in the general principles advocated by Mr. Mackenzie, except with respect to the advantage possessed by individual controlling authorities. He advocates the interference of Government in the judicial business of the country, and he greatly approves the more extended employment of native agency. He inclines to the opinion that the courts of appeal and circuit at Madras might be abolished, but expresses himself averse to sweeping innovations, and thinks that every thing necessary is in the course of gradual accomplishment. Mr. Bax has not recorded any separate opinion as to the relative advantages of collective and individual controlling authorities; but it appears from the committee's letter, dated the 13th of December last, that he entirely concurs in the view which Mr. Mackenzie has taken of this subject. In the scheme proposed by Mr. Mackenzie for the judicial and revenue administration of Bombay, Mr. Bax does not appear to concur; and he has deemed it sufficient to refer for an explanation of his views regarding this question to his Minute of the 16th June 1829, and to the regular Reports of the committee.

40. It is a curious coincidence, his Lordship observes, that the Madras Government should have abolished the courts of appeal and circuit in the interim, and have appointed in their stead individual controlling judges.

41. Should the Vice President in Council not be aware of any objection, his Lordship would consider it proper to allow the Governments of Madras and Bombay to see the scheme delineated for their Presidencies, that the authorities there may judge of its applicability.

42. Although the Governor-general has felt no hesitation in recording his individual concurrence in the generality of the measures for reforming the judicial and revenue administration of the country proposed by Mr. Mackenzie, yet so recently after a change of system has been introduced, his Lordship would be unwilling that another experiment should be tried, without previous reference to the home authorities. This reservation is intended to apply to the suggestions for remodelling the constitution of the superior controlling authorities, not to the proposed union of the offices of collector and magistrate, and of the functionaries subordinate to them, (preparatory inquiries, with a view to which purposes, will be immediately set on foot, as indicated in the 12th, 14th and 15th paragraphs of this letter,) nor to the more extended employment of native agency; which measure his Lordship considers to have been resolved upon, and to give effect to which, the promulgation of the forthcoming enactment on the subject is alone necessary.

43. To the success of the former of these measures, viz. the union of the offices of collector and magistrate, it will of course be necessary that efficient deputies should be appointed; and with a view at once to excite emulation, and to secure the continuance of able services in that capacity, his Lordship is of opinion that instead of having one uniform salary of 1,000 rupees per mensem annexed to the office, it would be preferable to establish a graduated scale, varying from one to two thousand rupees per mensem, the increase being assigned with reference to seniority and merit. On this branch of the subject, his Lordship has no further observation to offer.

44. As stated in my letter to your address of this date, his Lordship is of opinion that the local or temporary remedies which are applied in partial cases for the relief of the commissioners of revenue, may serve as experiments, the result of which will be useful for future guidance. It was therein further stated as his Lordship's opinion, that whenever the circuit duties press too severely on a commissioner, and when there is no objection to the measure on the score of personal fitness or want of leisure, the judge of the zillah be appointed to hold monthly gaol deliveries for his district; an arrangement which, if otherwise unobjectionable, his Lordship directed me to observe, could not fail of promoting the convenience of all parties concerned in the several commitments.

45. Entertaining these sentiments, his Lordship directs me to suggest that the Letter and Minutes to which this communication refers, be transmitted for the consideration and orders of the honourable Court of Directors, with the request of this Government that they will be pleased to determine whether any and what modification of the existing system should be introduced.

46. That his Lordship's sentiments on the question may not be misunderstood, he desires me to state distinctly, that he considers the existing system to have failed of effect; the result of the proceedings of the revenue and judicial authorities, especially with regard to settlements under Regulation VII. 1822, and to the conduct of the circuit duties, both under the old and the new system, being very unsatisfactory. That some measures calculated to relieve the commissioners from the circuit duties, and to afford them more leisure for attending to their revenue functions, appear to be indispensable. That the reforms proposed by Mr. Mackenzie seem well adapted to these purposes, and unobjectionable in other respects, supposing, as there is reason to anticipate from the more extended employment of native agency, the zillah and city judges will be enabled to perform all the criminal judicial duties of the district, including those hitherto performed by the commissioners of circuit. That the union of the offices of collector and magistrate, and of their subordinates, is also highly expedient, supposing likewise, as there is reason to anticipate from the appointment of efficient deputies, that those officers will have leisure to transact the business of the united offices. That the union of the controlling revenue and judicial authorities in the unsettled provinces is expedient and proper, for the reasons already stated; but in preference to Mr. Mackenzie's recommendation for individual controlling authorities, his Lordship, for the reasons stated in his Minute, would, as concerns the highest offices under Government,

desire

desire to see established, collective courts and Boards, the individual members of which might (if this should be thought requisite to attach responsibility and ensure exertion) have separate tracts of country assigned to their superintendence.

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(3.) Letter to the Deputy Secretary of the *Bengal* Government, 26 Jan. 1831.

47. I am directed to take this occasion of acknowledging the receipt of your letter dated the 7th ultimo, with its enclosed Report of the Finance Committee.

48. In connexion with their Report, under date the 25th of October last, for remodelling the fiscal and judicial establishment of the three Presidencies, the Finance Committee have, in the communication now acknowledged, submitted their sentiments as to the means by which the salaries of the head native officers in the revenue line may be raised without additional expense to Government. The saving by which the object is to be effected is to be obtained from the abolition of registers' establishments. The union of the offices of magistrate and collector, which will supersede the necessity of retaining a portion of both establishments, and the equalization of tehsildars' allowances. They recommend, however, that these alterations be introduced gradually, as funds accrue. The Vice President in Council, in forwarding that communication, recommends the union of the establishments of police and collection (involving of course the union of the offices of collector and magistrate), in the Western provinces.

49. As already stated, measures will be immediately taken for carrying into effect the union suggested; but his Lordship observes, that it can only be done gradually. As the means of defraying the expense consequent upon raising the salaries of sheristadars attached to the several collectors' offices appear to be highly judicious, a copy of their Report will be furnished to the Sudder Board on deputation, with instructions to require Reports from the several collectors subject to their authority, as to how far it would be expedient and practicable to equalize the allowances of the several tehsildars, on the principle suggested by the Finance Committee: and when the offices of the collectors and magistrates shall have been united, it will be time enough to determine what portion of the establishment alluded to in the 2d paragraph of the committee's letter can be dispensed with.

50. In the Lower provinces, where those offices are already in many districts united, the inquiry can immediately be instituted; and his Lordship recommends that it, as well as measures for discharging the registers' establishments, adverted to in the same paragraph, may be set on foot accordingly.

51. The Benares and Barielly court of appeal will immediately be required to report relatively to the registers' establishments, where these officers do not exist in the Western provinces, and the Sudder Board will be requested to ascertain and report what diminution can be effected in the charge for the establishments of the collectors of customs, where those offices have been united with those of collector of land revenue.

52. The proper officers should be required to report all reductions effected, whether by discharge of existing establishments, or by equalization of the salaries of the tehsildars, in order that the civil auditor may have the means of reporting to Government in what district funds exist for raising the salaries of the sheristadars, in the mode proposed by the Finance Committee.

53. Finally, his Lordship is of opinion that a considerable portion of the reforms recommended by Mr. Mackenzie, as not involving any violent change of system, may be introduced without the necessity of awaiting the sanction of the Court of Directors; and whatever may be the ultimate determination of that high authority, as to the merits of the plan which has been delineated, his Lordship trusts that they will concur with this Government in awarding to its author, and to his colleagues in the committee, all the credit which can be due to eminent talents, ardent zeal, and indefatigable industry.

54. The original enclosures of your letter, dated the 7th ultimo, are also herewith returned.

I am, &c.

Camp at Seetapore Lucnow, 26th January 1831.

(signed) *W. H. Macnaghten*, Secy to the Governor-general.

(4.)—MINUTE of the Governor-general, dated 24th January 1831.

(4.) Minute of the Governor-general, 24 Jan. 1831.

HAVING already in my Minute, on the remodelling of the Military Board at this Presidency, given my opinion on the relative advantage of individual and collective agency, I need not here say much more upon the subject.

Where the duties are principally executive, like those belonging to commissioners of revenue and circuit, much benefit is obviously to be derived from the despatch, vigour, and unity of purpose, which a single hand can best achieve. But on the other hand, when council deliberation, the careful revision of a great system, with its details, are required; when, moreover, functions are to be delegated, partaking partly of a judicial character; when investigating charges of default against a large body of revenue servants, and partly of a legislative character; when suggesting the Regulations by which the rights in the soil are to be determined, it strikes me, that there cannot be a doubt of the superiority of a collective body. In all my experience of public business, both in and out of Parliament, I have never seen an occasion where discussion did not produce great improvement in the original measure. In this country, where the Revenue system is of such vast importance to

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the community at large, it seems to me that Government can never hope to arrive at a complete knowledge of its management, except by that free interchange and honest collision of opinion, that can only grow out of a joint superintendence. The Board of Revenue is to the Supreme Government, what the latter is to the home authorities. I beg to ask, if it were not for the able and honourable individuals who sit in council in independence of the Governors of the different Presidencies, what security would there be even for a true and fair record of the administration, much less that the public affairs were conducted with efficiency and honour, and in the true spirit of the orders and intentions of so very distant an authority.

The Finance Committee have recommended that there shall be two commissioners of revenue, one for the Upper, and one for the Lower provinces. It is not stated whether they are to act separately or together, but as the principle of individual agency is maintained by the majority, I conclude that they are to act separately.

My opinion upon this subject is very much in conformity to that of Mr. Blunt; I quite agree with him that a Board of Revenue is indispensable for the regulation of the settlements in the Upper provinces. I think with him that two members would be sufficient; and I am further of opinion, that this Board should hereafter, under any circumstances, be stationed at Allahabad.

If an arrangement shall hereafter be made for dividing the administration of the Upper and Lower provinces, then I agree with Mr. Blunt, that the secretary in the Revenue department may conduct the whole correspondence with the commissioners in the Lower provinces; but if no such separation should take place, the details would too much overload the Government, and the appointment of a single commissioner would become necessary.

To the recommendation of the Finance Committee, for the substitution of a single commissioner for the Board of Salt and Opium, and for the transfer of the duties now exercised by the same Board, under the designation of Marine Board, to the Military Board, and of all the executive duties of the Marine department to the master attendant, I see no objection.

I agree with Mr. Blunt, and the senior member of the committee, Mr. Hill, in the expediency of maintaining the Revenue Board at Madras; but the reducing the number to two members would, in my opinion, promote economy, without in any degree impairing its efficiency.

I do not recommend the immediate adoption of any of these measures, as they regard establishments which have long had the sanction of the honourable Court; and as the whole frame of the Indian Government is about to be brought under public review, it may be more convenient to leave the decision of these minor details, to follow any general arrangement which the Legislature, in its wisdom, may think proper to adopt.

Camp Oude, 24th January 1831. (signed) *W. C. Bentinck.*

(5.)—MINUTE of Mr. *Blunt*, dated 24th March 1831.

(5.) Minute of Mr. *Blunt*, 24 March 1831.

In a Minute recorded by the honourable Mr. Bayley, under date the 5th of November 1829, that gentleman suggested a plan for improving the administration of civil justice within the provinces immediately subject to this Presidency.

2. Mr. Bayley's plan having been referred by Government to the Sudder Dewanny Adawlut for their consideration, the judges of that court submitted their opinions thereon in separate Minutes, accompanied by a letter from the register, dated the 16th of April last.

3. Although, as might be expected in discussing a subject of such paramount importance, much difference of opinion will be found in those Minutes in regard to the measures best calculated to effect the desired improvement, yet the court were unanimous in their opinion as to the expediency of the extended employment of native agency in the administration of civil justice.

4. The majority of the sudder court, however, disapproved of so much of the plan as is founded on the union of the judicial and revenue powers, and they object to the abolition of the provincial courts of appeal, or to the formation of a second Sudder Adawlut in the Western provinces.

5. On a consideration of the opinions and suggestions contained in those papers, certain resolutions were passed by Government, under date the 12th of October last, in conformity with which the secretary in the Judicial department was directed to prepare the draft of a Regulation to give effect to the modifications prescribed of the existing rules for the employment of natives in the administration of civil justice. But, in deference to the objections urged by the Sudder Adawlut to the abolition of the provincial courts of appeal, and to the erection of a second sudder court in the Western provinces, those measures were suspended.

6. It was at the same time resolved, that the provisions of the Regulation for the extended employment of natives should be gradually introduced into the several zillahs and cities by an order of the Governor-general in Council, and wherever so extended, the office of register and the native establishments attached thereto should be abolished.

7. The

7. The draft of a Regulation was accordingly laid before Government on the 12th of October last, a copy of which, with a copy of the resolutions above referred to, were forwarded for the consideration and opinion of the Sudder Dewanny Adawlut, as to the sufficiency of its provisions to meet the objects contemplated by Government. Appendix, No. 4. (5.) Minute of Mr. *Blunt*, 24 March 1831.

8. The court was requested also, in reference to the proposed abolition of the office of register, to report their sentiments on the general question, as to the best mode of giving employment to assistants in the Judicial branch of the service, in the event of that measure being adopted; and their particular attention was directed to some other points adverted to in the resolution.

9. Conformably with these instructions, the court of Sudder Adawlut, with exception of one of the judges (Mr. Ross), submitted, on the 18th ultimo, a draft of proposed amendments to the Regulation, but reserve to a future period the report of their sentiments on the other points referred for their consideration.

10. The communication from the court was accompanied by a Minute of Mr. Ross, explaining the grounds of his objections to the proposed enactment.

11. I shall not at present enter upon a consideration of the several modifications of the provisions of that enactment proposed by the Sudder Dewanny Adawlut; that may be done hereafter if necessary; at present I would wish to state my objections to the principle of the Regulation.

12. All must, I think, agree in the main point, namely, that it is expedient and necessary to employ the agency of respectable and well qualified natives more extensively in the civil administration of the country, provided always, that they are so employed under European superintendence.

13. If the proposed Regulation went only to effect this change in the existing system of Judicial administration, I would give it my cordial concurrence, and recommend that, with some few modifications, it be carried into effect as early as circumstances may admit.

14. But the provisions of the Regulation appear to me to involve a departure from that principle of European superintendence, which I conceive to be indispensably necessary to the success of the change of system contemplated, and it appears to me to vest in natives powers with which they ought not, in my opinion, to be intrusted.

15. My objections to the Regulation are principally as follows:

1st. That it involves the abolition of the office of register, which, for the purposes of superintendence, as well as for the relief of the zillah or city judge, and on other grounds hereafter noticed, I consider it indispensably necessary to maintain.

2d. That it vests the native judges with power to hear and determine appeals, a power which I am of opinion should be exercised only by European functionaries.

3d. That it leaves all suits under a certain amount (Rs 5,000), cognizable by native judges, whether the parties concerned be European or natives.

16. I need scarcely dwell upon the obvious objections that exist, to erect native judges over European British subjects, or to vest them with any jurisdiction, civil or criminal, in which an European British subject may be partly concerned.

17. It seems of great importance also, until further experience shall manifest the necessity, and shall justify the measure, of constituting the native tribunals courts of appellate as well as original jurisdiction, to limit their powers to the cognizance of original suits.

18. Mr. Bayley has, I think, justly remarked, that much of the success which has attended our progress hitherto in the amelioration of the native institutions (courts of justice) is to be ascribed to the slowness and caution which have marked the several steps of our advance, and he considers that the character and popularity of the scheme he has suggested would be hazarded by an innovation which should suddenly elevate the native judges to the exercise of the full extent of jurisdiction heretofore possessed by the European functionaries alone.

19. This sudden elevation, however, and independence of European control will necessarily attend the measure of vesting the natives with appellate jurisdiction. It will be wholly impracticable for the European judge (especially when the office of civil and criminal judge shall be united) to exercise an efficient superintendence over the native judicial tribunals; the parties appealing will be deprived of that assurance of justice which arises from their confidence in European integrity, for the numerous appeals with which the file of the zillah and city judge will be overloaded will preclude all hopes of an early hearing and decision by the judge, when he shall also have the duties of the criminal sessions to discharge.

20. A system of training also is necessary in the Judicial department, in order to acquire the qualifications necessary to fill the office of judge, which it does not appear to me that any other office than that of a register affords, and the abolition of which office would deprive the junior servants of the only means they now have of acquiring the experience and knowledge necessary to fit them for the higher judicial situations of the service.

21. It appears to me that it would be a mere waste of time and labour, attended also with heavy and unnecessary expense, to substitute for the employment of a register the duties "of preparing cases for the decision of the judge, of examining forms or reports, or in performing other ministerial duties," which (as remarked by Mr. Ross) would be better performed, and at much less expense, by the ordinary ministerial officers of the courts; although I do not

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not agree in the opinion expressed by that gentleman, in a Minute dated the 31st of January last, that they would be more usefully employed as advocates in suits between individuals, (even if such pleadings were not to be conducted before native judges), or as prosecutors on the part of Government in criminal cases, though no doubt in particular cases of importance and difficulty, especially in cases of embezzlement of public money, their services have been and may hereafter occasionally be employed with much advantage in conducting prosecutions; but I am not aware of any mode in which they could be employed with equal advantage to themselves or benefit to the public service, as in the discharge of the duties of the office of a register.*

22. In the 23d paragraph of Mr. Mackenzie's Minute on the Judicial and Revenue administration, dated the 1st of October last, he observes, "If it were possible, I would confine the native judges to original suits, making all cases appealable to the European judge;" and in another part of that Minute he regrets the necessity for the abolition of the office of register.

23. That necessity appears to arise out of the resolution to create a fund for increasing the allowances paid to the head officers employed in the Revenue department; and this object it is proposed to effect by the abolition of the office of register; but if the rule which prescribes that any increase of disbursement shall be covered by a proportionate retrenchment renders the abolition of the office of register necessary to the proposed increase of allowances, I should think it preferable that the latter measure be suspended, until means can be provided from other sources; for the evils which will result from the measure in that branch of the administration, which it is the object of the Regulation to improve, will, in my opinion, far outweigh the benefits to the Revenue department from the proposed augmentation of salaries.

24. But it will not in reality be attended with the saving which it appears to promise, for in the new system advocated by Mr. Mackenzie, in the Minute above referred to, and which I shall have occasion to notice more fully in a subsequent part of this Minute, he has recommended the appointment of two assistant judges in each of the several divisions into which he proposes to partition the Western and Lower provinces, for the occasional aid of the district judges, where their services may be most required, and to provide against that accumulation of the business of the zillah and city courts which it seems to be expected will arise from the abolition of the register's courts, and the necessity for which appointments would be obviated by the continuance of that office.

25. The court of Sudder Dewanny, in the observations subjoined to their letter of the 18th ultimo, have also expressed an opinion as follows:—

W. Leycester.
A. Ross.
C. T. Sealy.
M. H. Turnbull.

"The majority of the court are of opinion that all appeals from native officers should be heard and tried by an European officer, as the only mode of maintaining efficient check over the proceedings of the former;* they suggest, therefore, that the necessary alteration be made in the Regulation accordingly."

26. I would therefore propose that the Regulation be modified on the following principle:—

1st. That the register's courts be maintained.

2d. That all appeals from the decision of moonsiffs be heard and determined in those courts, or in the court of the zillah or city judge.

3d. That a special appeal lie to the zillah or city judge from the decisions of the register.

4th. That appeals from the decisions of the sudder ameens, or principal sudder ameens, be heard in the first instance by the zillah or city judge.

5th. That a special appeal from such decisions lie to the provincial court.

27. The register might also be empowered to try and determine summary suits for rent, of which it is proposed to relieve the zillah or city judges, by transferring the cognizance of such suits to the collectors; but there is already in most districts a heavy arrear of such suits depending before the collector undetermined. The services of the register would also be available, as at present, in aid of the magistrate; and he would, on occasions of emergency, be both prepared and qualified to be intrusted with the temporary charge of the office of judge or magistrate, to officiate in which, the want of a qualified person on the spot might be productive of much inconvenience; they would also be employed under the judge in various miscellaneous duties, all tending both to the public utility, and to their future qualification for the higher judicial offices.

28. Having

* Extract from a Minute of Mr. Ross:

"It should not be forgotten that the proportion of the suits instituted under R$ 5,000, is at least $\frac{19}{20}$ths of the whole number instituted; and that to diminish the security for the right decision of the very great majority, in order to ensure to the few what, if really an advantage, is but a very small one, cannot be just. It should also be kept in mind, that the native tribunals (the consequence of having been left entirely free from checks) are generally believed to be venal, and therefore no plan of reform extending their jurisdiction can be expected to give satisfaction to the people, unless it secure not only the right of appealing to an European judge, but also the certainty of the appeal being speedily decided. This consideration also seems to forbid, for a time at least, the employment of native sudder ameens, to try appeals from the moonsiffs, as proposed by Mr. Bayley, even were not the union of appellate and primary jurisdiction in the same tribunal objectionable on other grounds."

28. Having stated what appears to me objectionable in the change of judicial administration, for which the Regulation provides, it seems to be a fit occasion to offer my sentiments in regard to the further changes in the existing system of judicial and revenue administration in these provinces, recommended by the late Financial Committee in their Report of the 25th of October last, and especially with reference to those suggested in Mr. Mackenzie's Minute, dated the 1st of that month.

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29. The sentiments of the Governor-general on the various suggestions contained in that Minute, and in regard to Mr. Mackenzie's general scheme of judicial and revenue administration, are conveyed in Mr. Macnaghten's letter, dated the 26th of January last; and his Lordship has expressed his concurrence in the generality of the measures of reform proposed; but it is added, that after a change of system has been so recently introduced, his Lordship is unwilling that another experiment should be tried without previous reference to the home authorities.

30. The reservation, however, it is observed, in Mr. Macnaghten's letter, "is intended to apply to the suggestions for modelling the constitution of the superior controlling authorities, not to the proposed union of the offices of collector and magistrate, and of the functionaries subordinate to them, (preparatory inquiries, with a view to which purpose, will be immediately set on foot, as indicated in the 12th, 14th and 15th paragraphs of this letter), nor to the more extended employment of native agency, which measure his Lordship considered to have been resolved upon, and to give effect to which, the promulgation of the forthcoming enactment on the subject is alone necessary."

"It is further stated, that his Lordship considers the existing system to have failed of effect. The result of the proceedings of the judicial and revenue authorities, especially with regard to settlements under Regulation VII. 1822, and to the conduct of the current duties, both under the old and new system, being very unsatisfactory, that some measures calculated to relieve the commissioners from circuit duties, and to afford them more leisure for attending to their revenue functions, appear to be indispensable."

31. These being the sentiments of the Governor-general, and the necessity of a change of system for the attainment of the objects, with view to which Regulation I. 1829 was enacted, being sufficiently manifest, it appears unnecessary to wait the result of the reference that has recently been made to the Sudder Adawlut and Sudder Revenue Board on that subject. The failure may, I think, be chiefly ascribed to the union of the functions of circuit judge and revenue commissioner; not that such union is necessarily incompatible with the efficient discharge of both duties, provided the service admitted of a selection of individuals to fill those offices with reference only to their personal qualifications, and without regard to seniority. Many instances may be adduced in which judicial or revenue powers, in the management of particular tracts of country, have been very beneficially combined, and indeed are almost indispensable to an efficient administration; but these are exceptions to the general rule; and though every individual should possess the requisite qualifications, still we must be careful not to impose labours which no degree of zeal, assiduity or ability, can adequately fulfil.

32. It is, I think, chiefly to this cause, and in some instances perhaps to a want of knowledge and experience in the Revenue department, that so little appears to have been done by those officers in reference to the settlements in progress in the Western provinces. The periodical returns of the circuit duties have materially interfered with the prompt and regular discharge of those of the Revenue department; and it is clear that, whether from want of leisure or of experience, the administration of criminal justice has not been expedited or improved under the present system, while the revenue business of the commissioner's office has often fallen heavily in arrear.

33. The increased delay which in many instances has attended the gaol deliveries, and the necessity which has existed in almost every division, from the pressure of business, to relieve the commissioner of a part of the circuit duties, is also a serious evil; moreover, it is not only attended with a heavy additional charge in deputation allowance, and in maintaining extra native umlah, but occasions inconvenience to other departments of the service, and seriously interrupts the business of the civil courts, when the officiating commissioner is taken from a zillah or provincial court.

34. Neither has the police of the country benefited by the change of system, or the more efficient control which it was expected the commissioners of revenue and circuit would be enabled to exercise in that department. The circuit reports show grounds to believe that whatever may be the cause, the state of the police has rather deteriorated during the last two years. The district of Cawnpore is represented to be in a state of great disorder, and in some districts of the Lower provinces the crime of dacoitee has of late increased. In the district of Hooghly, the magistrate, in explaining the cause of the increased prevalence of gang-robbery, has urged the necessity of augmenting the severity of punishment for that offence, and has recommended that every offender convicted of gang-robbery shall suffer death.

35. I trust we shall never find it necessary to have recourse to increased severity of punishment for the prevention of this crime. I am satisfied that the sanguinary remedy proposed is unnecessary. I rejoice to see the measure discountenanced by the Nizamut Adawlut; and I quite concur in the opinion expressed by that court, that a discretionary power of mitigating the punishment now prescribed by the Regulations may be vested in the judges of circuit. I question indeed not only the humanity, but the policy of meeting

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an increase of crime by increased severity of punishment; measures of a milder character have hitherto been found perfectly effectual; and I must here express my deep regret that the exigencies of the state should have imposed on the Government the necessity of abolishing the office of superintendent of police, especially in the Lower provinces, where the crime of dacoitee is ever liable to break out on any relaxation of control, or inefficient superintendence of the local police authority. There can be no doubt that an officer on the spot, duly qualified, and having sufficient leisure, is better able to control the police, than one at a distance; but the revenue commissioners who succeed to those officers, generally according to seniority, must necessarily often be wanting in the requisite experience and qualifications for maintaining an efficient control in that department, and where this is the case, a rapid increase of crime will probably be the consequence.

36. The person vested with the controlling authority in the police department should be selected with reference to his fitness and qualifications for that important trust; he should have extensive experience in that department; should possess an accurate knowledge of the country; he should maintain a communication with the local magistrates in every district; he should be vested with a control over the whole of the subordinate police establishments; he should possess more than an ordinary share of energy, vigilance, and judgment; his time and attention should be wholly and uninterruptedly devoted to that branch of the administration; and being placed at the head of the department, the chief responsibility for the state of the police within the limits of his control should attach to him, instead of being transferred with every change that may occur in the office of revenue commissioner, and which must render it difficult to fix the responsibility for any deterioration in the police.

37. It will be admitted that at the period of the late change of system, the state of the police through the provinces had attained a degree of efficiency, which at no period antecedent to the establishment of the office of superintendent of police had ever been approached. I need only refer to the periodical reports and statements of crimes submitted to Government from that office since the year 1810, in proof of the benefits which resulted from its establishment. If (as observed by Mr. Bayley) those benefits have been obtained by the sacrifice of civil justice, it is because we have not earlier availed ourselves of the assistance to be derived from native agency; but I have watched the progress of that reform in the police, and the means by which it has been effected, since the office of superintendent was first established; and although it is mainly to be ascribed to the increased exertions and vigilance of the local magistrates and their subordinate police officers, yet this effect has been produced by means of the influence and control exercised by the superintendent of police, or to the measures adopted in that office; and in some cases of local disorders, to the personal exertions of the superintendent himself.

38. Whether the charge of the police shall be hereafter separate from, or united with, the office of collector, I am persuaded that it will be found necessary to take the control of that department out of the hands of the commissioners of revenue; and if, as I shall hereafter show, the expense of the office of a superintendent of police may be provided for by an arrangement which will cover the increased disbursement, I should strongly recommend the re-establishment of that office.

39. I now proceed to offer my sentiments on the scheme of civil administration suggested by the late Finance Committee, or rather on the propositions contained in Mr. Mackenzie's Minute dated the 1st of October 1830, and I shall at the same time have occasion to advert to the Minutes on the same subject recorded by the honourable Mr. Bayley, under date the 5th November 1829, and by the judges of the Sudder Dewanny Adawlut, forwarded with the letter of their register, dated the 16th of April last.

40. It is necessary to premise that I consider it impracticable to devise any scheme of civil administration which shall be equally well adapted to provinces under fluctuating settlements, and to those permanently settled, especially provinces differing so widely in the character of the people and their village institutions as those west of Benares differ from the Lower provinces.

41. Mr. Bayley, in the Minute above referred to, has observed as follows:

"It must be conceded, I imagine, by those who think most favourably of Lord Cornwallis's plan for the administration of civil justice, that the machinery was, from the very first, inadequate to accomplish more than a small proportion of the work it was expected to perform."

42. I must express my dissent from this opinion. At the period at which Lord Cornwallis's code was framed, the means it provided for the administration of civil justice were, I think, adequate; it was naturally to be expected that as the country advanced in its population, wealth and commerce, the business of the civil courts would increase. There was nothing, however, in the judicial system then established incompatible with the employment of native agency under European superintendence, in the administration of civil justice. Unfortunately (as it appears to me), instead of having recourse to that measure to the extent required, various expedients were resorted to, in order to meet the increase of civil business by means of European tribunals alone, and, contrary to the principle upon which Lord Cornwallis's system was founded, judicial and revenue functions were for these purposes united in collectors; but these expedients having failed, Lord Cornwallis's system was condemned and abandoned, after having stood the test of forty years' duration.

43. We have seen to what efficiency the state of the police has been brought under that system, and a more extended employment of native agency in the trial of civil suits might have

have afforded relief to any extent required by the civil tribunals. It would have left the judges of circuit at liberty to devote their time, if necessary, exclusively to the duties of that department, and would have been attended with the further advantage of admitting of the selection of persons for the duties of the circuit, with reference only to their qualifications.

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44. Although, therefore, I am not aware of the existence of any defects in the judicial institutions of Lord Cornwallis, which might not have been susceptible of remedy; yet that system was by no means adapted for extension to provinces of which the settlement of the land revenues remains to be formed; and I concur in the opinion expressed by Mr. Mackenzie in his Minute, that in unsettled districts the union of judicial with revenue powers is essential to the just determination of the rights of the great body of the people, which remain to be ascertained, as to the protection of those rights and of the interests of Government. It is also justly remarked by Mr. Mackenzie, that the separation of the judicial and revenue authorities, under the Regulations of 1793, did not take place until the perpetual settlement had been concluded; the same principle (Mr. Mackenzie observed) being followed in Benares; and I quite agree with Mr. Mackenzie in the opinion he has expressed in his Minute, of which an extract is inserted in the margin. In districts of which a settlement shall have been concluded, the establishment of a good police, and the administration of civil and criminal justice, are the objects of chief importance: but the union of judicial with revenue powers appears indispensable to the just determination of questions that must arise in the progress of a settlement connected with claims to proprietary rights, or to matters of rent and revenue.

The terms used by Lord Cornwallis show his belief (well or ill founded is apart from the present question) that the rights of the great body of the people had been ascertained and recorded, and that he relied upon the courts for maintaining what was so recorded, under the changes incident to the ordinary occurrences and transactions of private life, and as fit instruments to meet the exigencies of an unsettled country.

45. With this explanation of the sentiments I entertain in regard to the judicial and revenue system, established by the Marquis Cornwallis, and to the powers with which it is necessary revenue officers should be intrusted in forming the settlement of the land revenues of a newly acquired country, I proceed to offer such observations as have been suggested by a consideration of the plan of civil administration delineated in Mr. Mackenzie's Minute of the 1st of October last. I acknowledge, however, that I entertain a predilection in favour of systems and institutions which are sanctioned by experience, in preference to any schemes of administration that are new, experimental or uncertain in their result; and which may ere long involve the necessity of a further change in the form of Government; all such changes having a tendency to create feelings of dissatisfaction and distrust in the minds of those whose benefit is the only object contemplated."

46. In this light, I cannot but regard the proposition with which Mr. Mackenzie sets out, for declaring Government the supreme judicial authority, and for empowering it to interfere in its executive capacity in the judicial administration of the country, on general principles. I should consider the interference of the ruling power in the administration of justice to be decidedly objectionable, even if (constituted as the Supreme Government of India now is) the exercise of such interference were practicable; and for the reasons stated in paragraphs 4 to 9 of Mr. Macnaghten's letter, dated the 26th of January last, communicating the sentiments of the Governor-general on Mr. Mackenzie's Minute, I consider the proposed modification of the constitution and powers of the Sudder Dewanny Adawlut to be unnecessary and inexpedient. But I concur in opinion with Mr. Mackenzie, that in all matters or questions connected with land revenue, the supreme authority and control should be vested in the Government.

47. Another important change of system, under which the judicial administration of the country has hitherto been conducted, is advocated in the first twelve paragraphs of Mr. Mackenzie's Minute, in the proposed union of judicial and revenue functions throughout the country; the main principle of Lord Cornwallis's code, as before observed, being that of keeping those authorities distinct.

48. Generally, in the Lower and permanently settled provinces, I should consider it advisable to uphold that principle, upon the grounds declared in the preamble to Regulation II. of 1793. In the administration of criminal justice, the union of the powers and functions of revenue commissioner and judge of circuit has been tried and failed; and I have already stated my opinion in regard to the probable consequences of the measure, of vesting the revenue commissioners with the control of the police.

49. As regards the administration of civil justice, I can discover no necessity for that union, or any adequate advantage to be derived from it, provided we have recourse to the extended employment of native agency.

50. Except also as a measure of economy in the provinces permanently settled, I am not aware that any advantages will attend the proposed union of the offices of revenue collector and magistrate, though in our Western or unsettled districts, substantial reasons for that arrangement may exist there; the establishment of tehsildars under the authority of the collector renders it unnecessary to maintain the separate office of police darogah, the duties of which may be better discharged by an officer possessing in his revenue capacity an authority and influence over the village communities, by means of which we can better command the co-operation and support which is essential to an efficient police, and the practical benefits of which system I have lately had an opportunity of observing in the Madras territories.

51. But in the permanently settled provinces, there are no revenue officers under the authority of the collector whose services could be so available. We must there continue to

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administer the police by means of establishments entertained solely for that purpose, and who derive no authority from their connexion with the people; who having also no other means of support than the small salary of their office, are exposed to greater temptations to dishonesty, and require to be more vigilantly controlled than those who enjoy liberal allowances, more enlarged powers, and greater consideration and respect, advantages of which few would risk the forfeiture by any abuse of the trust reposed in them; neither would tehsildars in districts permanently settled (if such offices existed) possess the same influence over the village communities as in districts under temporary settlements. In Bengal they would be merely the receivers of a fixed revenue, requiring little intercourse with the people; whereas the powers and functions of these officers, in countries unsettled, afford them abundant opportunities of conciliating the confidence and attachment of all with whom they necessarily have intercourse, and who are in a manner under their authority.

52. Further, in the Western provinces, the constitution of the village communities is essentially different from those of Bengal; and under the direction and control of a tehsildar, much of the business which in the Lower provinces is necessarily brought into the magistrate's court, might there be left for adjustment to the village communities; there also crimes of enormity, but especially that of gang-robbery, have never prevailed to the extent that has at times disturbed the Lower provinces, and the duties of the magistrates generally are less arduous.

53. The union also of the subordinate police and revenue authorities seems necessarily to imply a like union of functions in the superior officer.

54. The plan therefore appears to me well adapted to the circumstances of the Western provinces, so far, at least, as the administration of the police is concerned; but whether it be reconcilable with the expectation of increased progress in the revision and formation of the settlements, requiring the local superintendence of the collector, or with the prompt investigation into proprietary claims preferred under the provisions of Regulation I. 1821, and Regulation I. 1829, are questions deserving consideration. The inconvenience which I should anticipate in this respect, from the proposed union of authorities, can only, I conceive, be obviated in the manner suggested by Mr. Mackenzie, namely, by affording the collectors the aid of sub-collectors or assistant magistrates, with a salary of from one to two thousand rupees per month, regulated on a graduated scale; the increase to be fixed, with reference to their standing in the service, and merit; yet even under this arrangement, I should apprehend that the progress of the settlements will be impeded by the demands on the time and attention of the collector, to which he will be subject in his capacity of magistrate.

55. But even in those provinces, the principle of uniting in the superior the powers which are combined in the subordinate officers, cannot be uniformly adopted: the question, what authority is to be put over the magistrates and collectors in those provinces, to which Mr. Mackenzie has adverted in the 15th paragraph of his Minute, is one of some difficulty; the separation of the functions of revenue commissioner and circuit judge seems to be indispensable, though under certain restrictions in matters of civil jurisdiction, relating to rent and revenue, it seems to be admitted that judicial and revenue powers may, during the progress of the settlement of the country, be conveniently and unobjectionably conjoined.

56. Both in the Western and Lower provinces, therefore, there appears to me to be only one alternative, namely, either to constitute the zillah or city judge a judge of criminal jurisdiction, as suggested by Mr. Mackenzie, or to appoint separate judges of circuit to be employed exclusively in that duty.

57. The only advantage of the latter arrangement over the former is, that the individuals appointed to the situation of circuit judges might be selected with reference to their past employments, and to their qualifications and fitness for that special duty, and for the general superintendence of the police; and under such an arrangement, the office of superintendent of police might with less inconvenience be dispensed with; on the other hand, less expense would be incurred by uniting the offices of civil and criminal judge; the gaol deliveries, which might be held monthly, would be expedited, people falsely accused would be more speedily discharged, while the conviction and punishment of the guilty would follow more immediately on the offence; moreover, the prosecutors and witnesses in trial before the judge of circuit would be relieved from the inconvenience and interruption to the occupations and the cultivation of their lands, which is often occasioned by the necessity of a double attendance, and sometimes a long detention in the criminal courts, and a considerable saving in the expense now incurred on account of their diet allowance would be effected.

58. But in either case, whether the business of the criminal sessions be discharged by the zillah or city judge, or by a judge of circuit, specially appointed for that duty, it would of course be necessary that he should exercise over the local magistrates and their subordinate police establishments, the powers now vested by the Regulations in the commissioners of circuit; though in regard to the tehsildars, it would be highly requisite that every consideration should be observed towards them; and that in the discharge of their functions of police officers, they should be subject to as little annoyance as possible, either by their attendance on the court being unnecessarily required, or otherwise.

59. On the whole, if sufficient aid be afforded to the civil judge, by the appointment of native judges, and by maintaining the office of register, considerations of economy will perhaps be best consulted, by uniting the offices of civil and criminal judge within the Western and Lower provinces; and I do not apprehend that the same difficulty would be

experienced

experienced in selecting fit instruments for the discharge of the duties of the united offices of civil and criminal judge, as has been experienced in regard to the offices of commissioners of revenue and circuit.

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60. It will be seen from the foregoing observations, that I do not consider the same reasons to exist for the union of the offices of the collectors and magistrates in the Lower provinces, as in districts yet unsettled; and although in permanently settled districts, the duties of a collector are light and unimportant, compared with those of the revenue officers in the Western provinces, and are attended with little labour or responsibility, yet those of the police department are far more arduous, and require a degree of activity, energy and vigilance, which, I fear, cannot reasonably be expected generally from a class of officers who have hitherto exercised only revenue functions, requiring little if any exertion. I should certainly prefer to see the office of magistrate in each district of the Lower provinces filled by a person selected for that trust, and who should have no other duty to perform, keeping the revenue and judicial authorities distinct; but if such arrangement shall involve a disbursement exceeding that at which our judicial establishments are now fixed, or to which it is necessary that they be reduced, the offices must of course be united, though, in that event, it will be still more necessary to maintain the office of register, to afford the magistrate such assistance as he will undoubtedly require; and, in some districts, where the business of the Foujdarry court may be more than ordinarily heavy, it will be further necessary, as in the Western provinces, to appoint assistant magistrates. In some districts of the Lower provinces, the plan of uniting the offices of collector and magistrate has already been experimentally introduced; but sufficient time has not elapsed to admit of a judgment being formed as to its practical operation. In the district of Jessore, however, I understand that there are at present one thousand nine hundred cases depending in the criminal court, before the collector and magistrate; and about six hundred persons on bail, or in custody under examination on various charges, besides innumerable summary revenue suits depending before the collector.

61. This leads to the consideration of the question of the expediency of vesting natives with criminal as well as of civil jurisdiction.

62. On the principle of extending gradually the powers to be vested in those officers, I would, for the present, as far as concerns the administration of criminal justice, merely employ them in preparing cases for the decision of the magistrate, or for commitment for trial by the criminal judge; that is to say, in cases referred to them for the purpose by the magistrate, they should examine the prosecutor, and take the depositions of the witnesses, and the defence of the accused, in the manner and form prescribed by the Regulations: and after completing the proceedings, they might be required to record their opinion as to whether there are sufficient grounds for committing the accused for trial; or if the offence shall be punishable by the magistrate, whether it be proved or otherwise, submitting their proceedings, with such opinion, for the final orders of the magistrate, without whose revision of the proceedings and sanction, no punishment should be inflicted, or prisoner committed to gaol; and all such proceedings should be conducted at the sudder station only.

63. In the order of Mr. Mackenzie's Minute, the next point for consideration is the means of improving the condition of the thannadars of the Lower provinces, to which the particular consideration of the Vice-president in Council is recommended by the Governor-general in paragraph 16 of Mr. Macnaghten's letter of 26th of January last.

64. This is a subject of much difficulty, and which has often been under the consideration of Government. That it is desirable to improve the character, by raising the condition of those officers, admits of no question; though I am not quite certain (as maintained by Mr. Mackenzie) that a fair remuneration will always purchase probity. The difficulty, however, consists in devising means for this purpose, without incurring a heavy increase of disbursement on account of our police establishments. Mr. Mackenzie acknowledges his inability to suggest a remedy, nor does any at present occur to me; the subject may however be hereafter taken into consideration; in the mean time I would suggest, that the Nizamut Adawlut be requested to ascertain the sentiments of the local magistrates and commissioners of circuit in the Lower provinces on that subject, and that they submit the same, with their own opinion, for the consideration of Government. It is to be remarked, however, that it has been by means of those officers, that our police has been brought to its present efficient state; and so long as they are vigilantly controlled, and at the same time treated with due consideration and forbearance, I should hope they may be restrained from misconduct, and encouraged to discharge their duties with continued zeal and fidelity.

65. I cannot agree in opinion with Mr. Mackenzie, that if the case* of the people be the main object of preventing crime, we have failed essentially, however successful we have been in checking the more violent offences; and I am compelled wholly to dissent from the opinion expressed in the 13th paragraph of his Minute, in reference to the character of our village police establishments.

* *Orig.*

66. The state of the village police must be separately considered, with reference to the Western and Lower provinces. Those establishments cannot any where be justly characterized as a "domineering and tyrannical class of officers, of whom the least offensive are those who merely occasion a needless expense." In the Western provinces every attention has been given to maintain the efficiency of these establishments, and, in almost every village, lands are set apart for their support, and have been secured to them in every settlement that has been formed; the office being there hereditary, though of course the incumbent is liable to be dismissed for neglect or misconduct in the discharge of his police duties.

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67. In the Lower provinces, the village police officer being nominated and maintained by the zemindars, or by the inhabitants of the village, he holds his office only so long as he gives satisfaction to those for whose protection he is employed; he may connive at thefts or depredations elsewhere, but not in his own village; he has no power of committing exactions, and I believe it is very rare that complaints of oppression or misconduct are preferred against a village police officer by any inhabitant of his own village.

68. It is no doubt desirable that our police officers should abstain from unnecessary interference in petty disputes. In the Western provinces, where more public spirit is evinced, the heads of villages may no doubt be induced to afford their assistance in the adjustment of such matters, and much aid to the police may be derived from their co-operation and support. But in the Lower provinces the case is different; there the village constitution and the apathy of the native character does not admit of the same resort. Regulation VII. 1811 was passed in order to divest the police darogahs of the power of interfering in petty and vexatious complaints, which had been found to be a source of great abuse; and further rules were passed under Regulation III. 1812, with a view to check the prevalence of frivolous or unfounded complaints, or the practice of summoning an unnecessary number of witnesses in support of such charges; and which was a practice frequently resorted to solely for the purpose of taking unresisted possession of disputed crops during the absence of the parties summoned. The honourable Court of Directors, however, did not entirely approve the provisions of the Regulation which restricted police officers from taking cognizance of petty complaints, unless referred to them by the magistrates; and I am not aware that any further provisions on the subject are now necessary. The restriction has unquestionably been a great blessing to the country, though it has always been a ground of complaint and regret by the police darogahs; it having not only put a stop to the innumerable petty and vexatious complaints with which the courts were overwhelmed, and of which I have known three thousand depending in one district, but having also effectually closed a door to the most grievous exactions and oppressions; from the practice of which it was ascertained, that in some districts (particularly in the Dacca division) the monthly receipts of the police darogahs averaged more than 800 rupees throughout the year, while their fixed monthly salary from Government was Rs 25; and it has been attended with the further most important benefit, of compelling the police officers to give their chief attention to the prevention of heinous crimes or the apprehension of offenders, a part of their duty which, being attended with less profit than trouble, was before wholly neglected.

69. The question as to the nature and extent of the judicial authority to be exercised by the sub-collectors, collectors, and revenue commissioners in the Western provinces, is one also of some difficulty. It seems quite necessary, that during the progress of the settlements of the land revenue for the purpose of determining all questions involving claims to proprietary rights, and all matters of rent or revenue, in which the interests of individuals or of Government are concerned, the revenue officers should be vested with judicial powers. It appears from the 21st paragraph of Mr. Macnaghten's letter, that a reference has been made by order of the Governor-general to the Sudder Board on deputation, for a report of their sentiments on this question. I am not aware of any objection to Mr. Mackenzie's proposition, that copies of decrees regarding lands in the unsettled districts should be sent to the commissioners, who should be authorized to certify to the sudder court for revision any decision that may appear to them to involve erroneous or mischievous principles; but whatever judicial powers it may be deemed necessary to vest in the revenue officers, I agree with Mr. Mackenzie in opinion, that they should not be continued beyond the period for which such necessity may exist, and all judicial powers which may be given to magistrates, collectors, commissioners, or boards, should be regarded as temporary only, and should cease when the rights of the agricultural class and of Government shall have been ascertained and recorded.

70. I have already stated in a Minute, dated the 6th January last, on the subject of the comparative advantages of individual agency and of collective boards, that I am of opinion the establishment of a controlling Revenue Board in the Western provinces is necessary, to regulate and superintend the progress of the settlements, and to determine all questions of difficulty or importance that may arise in the progress of that work, as well as to exercise a general control over the revenue officers of those provinces; the confirmation of settlements and final decision in all matters of importance in which the interests of Government are concerned being reserved to the Governor-general in Council; and I am of opinion, that the Board should be established at Allahabad. But on this subject a Minute has been recorded by the Right honourable the Governor-general, under date the 24th of January last, in which his Lordship having expressed an opinion favourable to the adoption of that measure, it seems only necessary to refer to his Lordship's Minute on the subject.

71. I would not, however, be understood to recommend the abolition of the controlling Revenue Board at the Presidency, for that measure would, I conceive, involve the necessity of again separating the offices of judicial and revenue secretary, which have so recently been united, and might also require the appointment of one or more deputies in that office.

72. I have already expressed my opinion in regard to the necessity of establishing a head Revenue Board in the Western provinces, vested with the general superintendence and control of the revenue administration, and likewise of all miscellaneous branches of revenue, such as the customs, salt, abkaree, opium, and stamps, exercising likewise, during the progress of the settlements of the land revenue, such judicial powers as may be deemed necessary to the speedy and just determination of all claims to proprietary right, the

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ascertainment of the relative rights of all classes of the agricultural community, the determination of rates of rent, and amount of the Government demand, and generally for the decision of all questions of importance that may arise connected with those settlements; such special powers being discontinued when the settlements shall have been completed.

73. As the local revenue commissioners in those provinces will be no longer employed as circuit judges, and as, for the reasons I have stated in a former part of this Minute, it will not, I think, be expedient to vest them with the superintendence of the police; as moreover it is proposed to unite the offices of collector and magistrate, whereby I am of opinion, even with the aid of deputy collectors and assistant magistrates, the business of the settlements will be greatly impeded; lastly, as the settlement of the land revenue is of paramount importance, I should strongly recommend that, with some modifications, the plan suggested by Mr. Ross in his Minute, dated 16th of April last, be adopted, namely, that as higher qualifications and greater experience are required for the formation of settlements than for the mere collection of the land revenue, that duty should be performed by the local revenue commissioners, or by well qualified natives, under their immediate superintendence and control, the commissioners themselves receiving their instructions from the Western Sudder Board, and being aided when required (so far as their magisterial and police duties may admit) by the collectors and subordinate revenue officers; the settlement of land revenues, and the investigation and decision of the numerous suits or claims preferred under Regulation I. 1821, (of which there is now a heavy accumulation) constituting the principal duties of the commissioners; and those officers continuing vested, as at present, with a general control over the collectors and their subordinate revenue officers in all matters of revenue, though not of police, no alteration being made in the local limits of their respective divisions as now established; and in each district of which, under this arrangement, the revenue settlements might proceed simultaneously.

74. It would not, I conceive, be difficult to select for the office of commissioner a sufficient number of experienced and efficient revenue officers, having no other duties to perform, under whose superintendence and individual responsibility it may be reasonably expected that more progress would be made in one year in the business of the settlements than has yet been effected since the enactment of Regulation VII. 1822. It should be the special duty of the commissioner to investigate the grounds of all claims to remissions of revenue or abatements of jumma, which of late years have been preferred to a great extent, and the necessity for which has generally been very imperfectly ascertained; and though the evils of over-assessment are particularly apparent in the province of Bundlecund (some parts of which are said to be nearly depopulated from that cause), we have not at present the means of determining, on any satisfactory grounds, to what extent it may be necessary to grant remissions of balances or abatements in the demand of the ensuing year, the local officers not having sufficient leisure to institute the inquiries necessary for that purpose, without neglecting other important duties.

75. The above arrangement would be attained with this further advantage, that it would leave the collectors sufficient time to attend to their duties of magistrates, and they would be relieved from the necessity of being frequently absent from the sudder stations on account of revenue duties, which would seriously interfere with the discharge of those of the magistrate's office. The heavy expense also which would attend the appointment of sub-collectors and assistant magistrates on a monthly salary of 1,000 to 2,000 rupees (which is a part of the plan proposed by Mr. Mackenzie), with the further charge on account of their native establishments, would in a great measure be avoided.

76. In the Lower and permanently settled provinces, the revenue commissioners being relieved from the duties of the circuit, and having only those of the Revenue department to perform, their local jurisdictions might be extended, and the number of commissioners considerably reduced. In lieu of the eight divisions noted in the margin, I would propose to appoint four commissioners for the divisions of Dacca, Patna, Moorshedabad and Calcutta, who should ordinarily be stationed at those cities, and exercise all the powers of the late Boards of Revenue, subject to the controlling Revenue Board at the Presidency; having of course a suitable establishment attached to their respective offices, adequate to the additional extent of their revenue superintendence.

Divisions	10
Ditto	11
Ditto	12
Ditto	13
Ditto	14
Ditto	15
Ditto	18
* Ditto	20

77. The abolition, under the above arrangement, of four of the present Revenue divisions, would effect a considerable saving, and would provide ample funds to cover the expense of re-establishing the office of superintendent of police in the Lower provinces; a measure which, under any arrangement, I should earnestly recommend: it would also add to the means of increasing the salaries of the native officers, without abolishing the registers' courts for that purpose.

78. In regard to the higher judicial tribunals, to which paragraphs 31 to 41 of Mr. Mackenzie's Minute have reference, both that gentleman and Mr. Bayley, in his Minute already referred to, has recommended the abolition of the provincial courts of appeal; and it is proposed to dispense with any intermediate controlling authority between the zillah courts and the Sudder Dewanny Adawlut.

79. The expediency of this measure has been so fully discussed in the Minutes of the judges of the Sudder Dewanny Adawlut, which accompanied their register's letter, dated the 16th April last, that I have little to add beyond the expression of my entire concurrence in the opinions on that subject entertained by the court. A measure for which I cannot discover any sufficient reason, the abolition of the provincial courts, will, I conceive, para-

lyse the whole scheme of judicial administration now proposed to be established; and even though a second court of Sudder Adawlut were to be erected for the Western provinces, I should consider it quite impossible that the business of the four provincial courts in the Lower provinces, particularly with the additional native courts now to be established, can be adequately performed by the Sudder Adawlut at the Presidency. Moreover, in extending, as is now proposed, the judicial powers to be intrusted to natives, it seems necessary to maintain every means of control, not only over those tribunals, but also over the zillah court, from whose decisions or orders, if unjust or erroneous, all hope of redress would be precluded; if it could only be obtained on a hearing of the case by the highest tribunal, the miscellaneous business of which court (if the lower courts of appeal were abolished) would alone engage all the time of the judges. The objections which are urged by Mr. Mackenzie to a continuance of the provincial courts would be obviated by a careful selection of the judges of those courts; and as those officers will not hereafter have any circuit duties to perform, they ought to be enabled to dispose of all appeals from the lower courts without delay; for which purpose it is probable that two efficient judges in each court would ordinarily suffice. The judges should hold their sittings singly; a concurring opinion of a single judge being sufficient to affirm a decision or order of the zillah court, and two concurring opinions being necessary to alter or reverse such decisions; and in the event of a difference of opinion in the provincial court, the case should be referred for decision by a single judge of the Sudder Adawlut.

80. With a view, also, to enable the zillah judges duly to superintend the native tribunals, and to hear and determine, without delay, all appeals from the sudder ameens, or from the decisions of the moonsiffs which they may deem it proper to retain upon their own files, instead of transferring them to the register for trial; and likewise in order that they may be enabled to discharge the duties of criminal judge, and to superintend the police of their respective districts, it will probably be necessary to vest the provincial courts with original jurisdiction in all suits exceeding the sum of 5,000 rupees, in value or amount, the zillah courts being merely courts of appellate and of criminal jurisdiction.

81. Concurring, therefore, in opinion with the Sudder Adawlut, as to the necessity of maintaining those courts, I cannot attach equal weight to the arguments by which the judges of that court have opposed the measure of creating a second Sudder Adawlut for the Western provinces. The court, it appears, consider the distance by which they are separated from our Western provinces to be of little importance. They deem the personal attendance of the parties in suits to be unnecessary and useless. They are of opinion that the publicity of the acts and proceedings of a court established at the seat of Government is calculated to secure the confidence of the natives, to whom no decision by a court of ultimate resort established in the interior would, they think, be so satisfactory. They argue that one superior tribunal is necessary to preserve uniformity in the interpretation of the law, and that they consider that the measure will be attended with an unnecessary expense, as the appointment of one additional judge to the sudder court will suffice for the business of that court.

82. It is not only with reference to the extent of the civil business of the Sudder Adawlut, but to that of the criminal side of the court that the establishment of a Sudder Adawlut in the Western provinces appears necessary; for if, as observed by Mr. Bayley, the recent measures by which individual commissioners of circuit have been substituted for collective commissioners of circuit, require a more close and active superintendence over those officers than can be exercised by the Nizamut Adawlut at the Presidency, still more will such supervision and control be necessary when the number of individuals exercising the powers of criminal judge shall be multiplied by the union of that office with that of the zillah judge, as a careful selection of persons duly qualified for that important trust will be more difficult, in proportion as the number of individuals to be employed is augmented.

83. In regard to the civil business, it is stated by one of the judges of the Sudder Dewanny, that the proportion of appeals preferred from the Western provinces compared with the number of suits determined is greater than in the Lower provinces, consequently that the inhabitants of those provinces experience no more difficulty in appealing causes to the sudder than is experienced by those in the Lower provinces; but there can be no doubt that the causes of civil controversy will be found to exist to an equal extent in the Western as in the Lower provinces, and I cannot but suppose that it would be satisfactory to the parties concerned therein to have the option of attending in person the court in which their claims are investigated and determined. Some of the objections urged by the court to the establishment of a Sudder Adawlut in the Western provinces would have equal force, whatever might be the extent of our provinces; the court proposing to meet the increase of business incident to extended dominion by an additional number of judges at the Presidency. I cannot, however, but consider the court of Sudder Adawlut already too far removed from our Western provinces, to secure to their inhabitants an efficient administration of civil or criminal justice. If only one court of ultimate resort is maintained for the Western and Lower provinces, it ought to be more centrically situated; but the present extent of local jurisdiction of the court appears to me such as to render the establishment of a Sudder Adawlut of civil and criminal jurisdiction at Allahabad indispensably necessary for the exercise of a due control over the local judicial functionaries, and for the happiness and welfare of the inhabitants of those remote territories. The measure, I observe, is upon these grounds advocated by one of the judges of the sudder, and the arguments contained in Mr. Bayley's Minute in favour of that measure appear to me conclusive.

84. The modification, however, of the powers and constitution of those courts, which are suggested in the 32d and subsequent paragraphs of Mr. Mackenzie's Minute, appear to me,

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to be liable to serious objection. Mr. Mackenzie proposes that the judges of the courts of Sudder Adawlut, both in the Western provinces and at the Presidency, should be also sudder revenue commissioners. Now although during the progress of the settlement of any newly acquired territories, it may be expedient and necessary temporarily to empower the revenue authorities to determine certain cases relating to lands, and their liability to assessment, I would not so far depart from the principles on which the judicial and revenue code of 1793 is founded as to unite the controlling authorities in those departments. The judicial tribunals, and the revenue authorities of the country, when settled, should, I think, invariably be kept distinct. I see no advantage in the union proposed, but much that is objectionable in principle and inconvenient in practice. In the Western provinces the Sudder Revenue Board should not only have a controlling authority in all matters connected with the land revenue, but should also exercise a like authority in the miscellaneous branches of revenue of salt, opium, abkarry, stamps and customs, which at present cannot be duly exercised by the Board of customs, salt and opium at the Presidency, and which could not, I think, be properly vested in a court of civil and criminal judicature.

85. The scheme proposed by Mr. Mackenzie in paragraphs 53 to 60 of his Minute for the partition of the Western and Lower provinces into divisions and circles, and the judicial and fiscal establishments which he therein proposes to entertain being wholly incompatible with the arrangements I have suggested, need not here be discussed; his suggestions, however, therein contained for the improvement of the village police, I conclude has reference principally to the Western provinces, where no doubt the services of the heads of villages and co-operation of the village community may be made highly conducive to the establishment of an efficient police; but in the cities and principal towns of the Lower provinces permanently settled, the system of police established under the provisions of Regulation XXII. 1816, and Regulation XX. 1817, seems to require no amendment, and cannot be disturbed without mischief. In proof of benefits to the police which have resulted from the organization of a body of subordinate police officers, adequately and regularly paid in the manner provided for by the former Regulation, it will be sufficient to compare the reports of the state of the police in the cities of Dacca, Patna, Moorshedabad and Benares, previously to that enactment and those of the present day. I would leave it to the option of the inhabitants of the principal towns and villages to entertain chokeedars for their protection on the principle of the establishments entertained in the cities; but it seems desirable that the extension of the system should be encouraged by the local magistrates; the co-operation of the landholders or heads of villages, in support of the police is already enjoined by the existing Regulations, and I am not aware of any further measures that can be adopted calculated to improve the state of the village police.

86. In regard to the introduction of trial by jury, which is recommended by Mr. Mackenzie, my opinions are entirely opposed to the adoption of that measure. The suspension of the Regulation passed at Madras for the gradual introduction of that form of trial in the provinces subject to that Presidency, has been approved by the honourable Court of Directors, until experience shall have been had of the result of the experiment which has been made of that mode of trial in the supreme courts at the three Presidencies.

87. In a Minute, dated the 14th September last, the governor of Madras (than whom no man is better qualified, by his experience and knowledge of the native character, to form a just opinion on the question) has thus expressed himself:—"My opinions have undergone no change, as far as regards the inexpediency of employing native juries to find verdicts in the courts of European judges. I continue to think that the assembling of a great many heads of families from different parts of an extensive province, at the station of the court where they must come from such distance, attended by a part of their family, and where they would be long absent from their homes and their business, their family and their religious ceremonies, (a very important part of the life of a Hindoo,) would be felt as a grievous hardship by the natives themselves, and that their contending and corrupt opinions would embarrass rather than assist the European judge in his proceedings."

88. Mr. Lushington considers that there must be a great change before the feelings and the institutions of a free country can be expected to arise and flourish amongst the people of India; and "when we remember" (he observes) "that trial by jury, conducted as that noble institution is in our own country by freemen enlightened by education and christianity, is scarcely yet known amongst the nations of the continent of Europe, as an instrument of public justice, it is no unkind reflection upon the people here to say, that they are not yet fitted for it in the provinces. Of this truth there cannot be a stronger demonstration than the well-known fact, that out of a population of Madras of 500,000 souls, only 79 Hindoos have been declared qualified to sit as jurors."

89. At this Presidency, and within the local limits of the jurisdiction of the supreme court, the inhabitants have for many years had the benefit of institutions founded for the advancement of their education, and for the extension of knowledge in European science, literature and jurisprudence; there, too, a large body of highly respectable and intelligent natives, independent in their circumstances, are congregated, who are familiarized with the practice of European courts, and enlightened by their intercourse with European society; and it is therefore probable, that at this Presidency a much wider field of selection would be afforded of persons qualified to sit as jurors than at Madras; but I am not aware that, in respect to the characters and qualifications of the inhabitants generally, in the interior of our provinces, for the discharge of that office, a greater choice of qualified persons will be found amidst

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the population under this Presidency than in that of the Madras territories; and I should deprecate the extension of the system to our mofussil courts, founded upon any results of an experiment made in the supreme court at the Presidency, under means and circumstances far more favourable to its success than can (at least for many years to come) exist in the mofussil.

90. A principal advantage which is promised by the arrangement now contemplated, of constituting the zillah judge a judge of criminal jurisdiction, and providing for a monthly sessions of gaol delivery at each station, is that of relieving the inhabitants generally of these provinces from the grievous hardship of a frequent or long attendance on our criminal courts, and the injury to their affairs and distress to their families occasioned thereby; a very considerable saving of expense to Government in the item of diet allowance hitherto granted to such persons during their attendance on the courts is also anticipated by that arrangement; but both these objects will be defeated, if at each monthly gaol delivery it shall be necessary to require the attendance at the sudder station of a body of the most respectable inhabitants of the district, for the purpose of selecting jurors.

91. Moreover, however well qualified, impartial or honest such persons might be, I much doubt whether, in many cases, they would possess the firmness, or would be disposed to encounter the peril they would incur in giving a conscientious verdict according to the evidence before them on the trial. It is a well-known fact, that at the period the crime of decoitee, of the most aggravated character, was most prevalent in the province of Bengal, it was with great difficulty that persons robbed were induced to prosecute, or witnesses to give evidence, from the threatened or apprehended vengeance of the accused if acquitted, or of their adherents and associates if convicted. Would not such fears, it may be asked, equally operate in the timid minds of native jurors of the provinces in trials for decoitee, from the apprehension, that on their return home to their villages, removed from the immediate protection of the court or of the police establishments of Government, their lives or property might be exposed to danger from the dictates of revenge? would they not consider the risk of such a consequence an evil far outweighing any compensation that could be made, or inducements that would be afforded to them, to undertake the duty of jurors? would not these fears, and a natural desire to consult their own ease and safety, prompt a verdict of acquittal in all cases in which the character of the accused was known to be desperate, or in which any of the gang should remain unapprehended? or what better hope would there be of a fearless and honest verdict against a zemindar or considerable land proprietor, or other person possessing influence and power in the district, who might be charged with any serious affray, or other act of violence or oppression, from a jury who must be often composed chiefly of the tenants or dependants of such persons? where, indeed, in any case, shall we look amidst the native population of our provinces for that love of justice, and that independence of character, without which the trial by jury would be the greatest evil that could be inflicted on the country?

92. For these reasons alone, I should deeply lament to see any change of the nature proposed in the administration of criminal justice; but if the object of the proposed change is (as stated in the preamble to the Madras Regulation X. of 1827,) "to facilitate the tracing facts from evidence," I am not of opinion that the trial by jury is so well calculated for the purpose as that which at present exists; for where will any individual of a jury be found possessed of that experience, skill, intelligence and judgment, which is possessed by the law officers who preside in our criminal courts, and who are certainly in general far better qualified to form a correct estimate of the value of native testimony, and to elicit the facts of the case than any persons of the class of whom the juries would ordinarily be composed; to say nothing of the objections that might be urged to native juries, on the grounds of the general disregard to the obligations of an oath in the middle and lower classes of the natives of India, the temptations to corruption arising from their poverty, their wants, and their cupidity; or the various motives or considerations of self-interest by which a verdict of a jury, composed of many individuals, is more liable to be influenced than that of a single person selected from the higher and better educated class of natives, both on account of his qualifications and respectability of character, and who holds a profitable and responsible office under Government, upon which his subsistence depends, and of which he would be liable to be divested, were he guilty of corruption or misconduct.

93. If it be an object of the proposed change to shorten the proceedings in criminal trials, by dispensing with the record of much which is at present required to be reduced into writing in several languages, this may possibly be a reason for the change in the criminal courts of the Madras territories, which does not apply to the courts in the provinces under this Presidency. In the former, the proceedings of the criminal courts which are held in the native languages are, I believe, translated and recorded in the English language, and much delay is thereby occasioned; but such is not the practice in these provinces: the examinations or defence of the parties and depositions of the witnesses are taken and recorded in the language in which they are most conversant. This could not, I presume, be dispensed with, whatever may be the form of trial established, and I do not therefore perceive in what manner the trials would be shortened by substituting juries on criminal trials for our present law officers, though in certain civil suits, especially those relating to disputed boundaries, matters of account or of caste, native arbitration may be resorted to with great advantage.

94. If we could raise the character of the people, it is not, I conceive, by imposing upon them irksome duties, or by compelling them against their inclinations to serve on juries,

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and thereby render our system of administration unpopular, but by encouraging education with a view to qualify them for employment in situations of trust and emolument under Government.

95. I shall, however, dwell no longer on this subject, observing merely that the several judges of the Nizamut Adawlut at the Presidency (with only one exception) have strongly objected to the proposed measure, on grounds which are recorded in their respective Minutes, transmitted to Government with their register's letter, dated the 20th of November 1829; and even the judge, by whom opinions are entertained in favour of the measure (Mr. Ross), recommends that it be limited to cases in which the prosecutor or the prisoner might have the means of offering to the mooftee or the native judge a temptation, which it might not be deemed safe to rely on his regard for character, and fear of loss of office, being sufficient to induce him to resist.

96. From the 60th to 70th paragraphs of Mr. Mackenzie's Minute, that gentleman has drawn certainly a very melancholy picture of the state of the provinces under this Presidency; but I apprehend he does not mean to include the Lower or permanently settled provinces in that description, as it appears to me totally inapplicable to the state of the country, and the feelings and condition of the inhabitants in that portion of our territories. I think, too, his pencil has portrayed in too vivid colours the miseries of the Western population under our past administration, in advocating the changes he has proposed. Mr. Mackenzie observes, "If not hated by the people, we are at least without the slightest hold on their affections from Benares upwards; the fact appears to be generally admitted, and within those limits lies almost all the military part of our population." He appears to ascribe this unpopularity to the defects of our past system of administration, which he considers unadapted to their condition; he deplores the evils of hasty legislation; he would not, he says, attempt suddenly to introduce what we desire to establish every where or in many places at once. "If in a hundred years (he observes) the object be attained, there will be abundant glory for our country."

97. If the country, however, is in reality in the condition described by Mr. Mackenzie, and those evils have been occasioned by the causes to which he has ascribed them, it is to be hoped that it will not need so long a period to effect the desired reform.

98. I do not, however, ascribe the discontents said to prevail in our Western provinces, or the miseries which the people are said to suffer, to any defects in the system of civil administration established in those provinces; that feeling is, I think, to be ascribed to two causes; namely, the extensive sales of land, and the evils resulting from short settlements. The former cause of discontent and of injury has long since been put a stop to; and every endeavour has since been made to remedy the evils which were caused by the extensive transfer of landed property, and by that sweeping annihilation of the rights and existence of the whole body of village proprietors, which resulted from the extensive sales of land for recovery of arrears of revenue, which took place during the early years of our possession of those provinces; an evil which was aggravated by the system which then prevailed of fixing the amount of the public demand, without any previous ascertainment of the resources of the country to be assessed, but merely on the douls or estimates of irresponsible and speculating foreigners, to whom, on the recusance of the ancient and hereditary landholders, extensive tracts were farmed out at an excessive assessment, in supersession of the rights of the former, and to the injury, oppression and discontent of the whole agricultural community. I do not consider a permanent settlement to be expedient, until rights shall have been better ascertained and recorded, or until the cultivation of the country shall be sufficiently advanced to render that measure unobjectionable as regards the interests of the state; but I have reason to know that much importance was at one period attached by the higher and most influential classes in the Western provinces to that measure, and that a very general feeling of disappointment was occasioned by the orders from home interdicting its adoption. That feeling has long since, however, subsided, and the expectation of a permanent settlement is no longer entertained. Nevertheless, I am of opinion, that the present system of short settlements has been a source of harassment and discontent to all classes, and has tended to retard the improvement of the country. We need only look to the wretched state of the province of Bundlecund, to discover sufficient cause of misery and discontent in the effects there visible of fluctuating and excessive assessments. Most of the districts of the Western provinces have however attained a sufficient state of improvement to admit of settlements being farmed for an extended term of years; and I should wish to see a settlement concluded for a period of 20 or 25 years, on the principles of Regulation VII. 1822, in every estate of which the proportion of waste and uncultivated land shall not exceed one-fourth of the whole of the rukba or lands comprised in the estate.

99. I am not of opinion that our judicial system established in the Western provinces has been unadapted to the people, or opposed to their habits or feelings, otherwise than as it tends in the administration of justice to place all persons on an equality, and to level all distinctions of rank, the master with servant, the landlord with the cultivator. This is undoubtedly opposed to the former customs of the country, and was, on the first introduction of our Regulations, a source of much dissatisfaction to the higher classes of the natives in our Western provinces; but if it be a defect, I apprehend it is not one which it is the object of Mr. Mackenzie's plan to correct, nor do I perceive in what manner the plan of administration he has suggested is better calculated to conciliate attachment to our Government, or to remove those feelings of disaffection which he considers to prevail.

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100. It may not be here out of place to introduce the following extract from a Report of the late commissioner of Bareilly (the honourable W. Melville), written at the close of the last circuit of gaol delivery in that division, under date the 17th of October last, and although (as before observed) I do not consider the measure of a permanent settlement at present called for as expedient, still I think the observations contained in that Report are justly deserving of attention.

" I cannot conclude, however, without expressing my conviction that the great object to be held in view in regard to the millions inhabiting these widely spread provinces, that to which all subordinate measures and arrangements should have reference, that to which all temporary expedients and petty facilities should give way, that regarding which all expectations of unattainable perfection should be abandoned, and in which an approximation to the truth should be deemed sufficient, is undoubtedly the formation of a permanent settlement of the land revenue; without it there can be no security, and therefore no happiness, either for the proprietors or the people."

101. I have thought it necessary to make the foregoing observations, as some parts of Mr. Mackenzie's Minute appear to me calculated to convey impressions regarding the state of our provinces, and the practical operation of the existing laws and system of Judicial and Revenue administration, which I think are erroneous, and because it does not appear to me by any means certain that the happiness and general good of the people would be promoted, or the administration of the country improved, by the system he has proposed to substitute, and which, at best, must be considered only experimental.

102. Dissenting, therefore, as I do from the opinions entertained by Mr. Mackenzie, both as to the extent of the existing evils, and the necessity of such a total subversion of that system of administration by which the country has hitherto been governed as proposed in his Minute, I shall conclude these remarks by a brief outline of the modifications of the existing system, which appear to me calculated to obviate the chief causes of its failure, and to improve the Revenue and Judicial administration of the country.

103. In the Western Provinces, I would propose the following judicial and fiscal establishments:

1st. A Court of Sudder Dewanny and Nizamut Adawlut, consisting of three judges, with a register and assistants, to be established at Allahabad, with a jurisdiction including from the 1st to the 9th divisions of Regulation I. 1829.

2d. A Sudder Board of Revenue, to consist of two members, a secretary and assistants, to be fixed at the same station, and having a co-extensive jurisdiction with that of the Sudder Adawlut, exercising a general control over every branch of the revenue affairs of those provinces.

3d. A Commissioner of Revenue in each division, exercising the revenue powers at present vested in those officers, but especially employed in superintending and directing the settlements of land revenue.

4th. A Zillah or City Civil and Criminal Judge in each district or city, to hold a monthly sessions of gaol delivery, and vested with a control over the police.

5th. A Register to the Civil Court, being also assistant to the magistrate.

6th. The subordinate tribunals of sudder ameens and moonsiffs.

7th. A Collector of Land Revenue, being also the magistrate of his district.

8th. Sub-collectors and Joint Magistrates where necessary.

9th. Tehsildars and subordinate Officers of Revenue and Police, the office of Police Thanadars being discontinued.

104. If the office of superintendent of police shall not be re-established in the Western provinces, (and I consider it to be less necessary there than in the Lower provinces,) the criminal judge of the zillah should prepare and forward to the Western Nizamut Adawlut, for transmission to Government, the half-yearly statements of crimes and police reports hitherto furnished by the superintendents of police.

105. In the Lower Provinces, I would propose the following establishments:

1st. A Sudder Dewanny and Nizamut Adawlut, to consist of three judges, a register and assistants.

2d. A Sudder Revenue Board, to consist of two members, a secretary and assistants.

3d. Four Revenue Commissioners at the cities of Dacca, Patna, Moorshedabad and Calcutta, exercising the revenue powers now vested in those officers.

4th. A Superintendent of Police.

5th. Zillah or City Criminal Judges, with the same powers and duties as in the Western provinces, except that they shall not be required to furnish the periodical police reports and statements of crimes required from the judges of the criminal courts in the Western provinces.

6th. A Register to the Civil Court and Assistant to the Magistrate.

7th. The subordinate tribunals of sudder ameens and moonsiffs.

8th. A Collector of Land Revenue, being also a magistrate of his district, but where, from the state of the police or of the business of the Revenue department, it shall appear necessary, the office of magistrate to be either temporarily or permanently separated from that of collector, or an assistant magistrate appointed, and the magistrates to furnish the superintendent of police with the periodical statements and reports required by that officer for submission to Government.

9th. Police Darogahs, and other subordinate police establishments.

106. The

106. The union of the offices of collector and magistrate in the Lower provinces is proposed solely on the grounds of economy, otherwise I should consider it very desirable to keep those offices distinct, for the reasons I have already stated. I think the duty of the magistrates is in most districts more arduous in the Lower than in the Western provinces, and will often require the undivided attention of the magistrate. That union should not be continued in any district the police of which may fall into disorder, or in which a heavy arrear of business may accumulate in the magistrate's court, as is understood to be at present the case in Jessore.

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107. In a financial point of view, the arrangements above suggested will be attended with all the advantages which are expected to result from the scheme of administration which has been suggested by Mr. Mackenzie; it involves a less violent change of system, and so far as the circumstances of the country, and the exigencies of the state will admit, is consistent with the institutions and conformable to the principles by which the Government of this country has hitherto been successfully administered, and under which (at least in the permanently settled provinces) the inhabitants, have long enjoyed security in their persons and property, and the Government has secured their gratitude, confidence and attachment.

24th March 1831. (signed) *W. Blunt.*

(6.)—MINUTE of Sir *C. T. Metcalfe*, dated 11th April 1831.

(6.) Minute of Sir *C. T. Metcalfe*, 11 April 1831.

THE Letter from Mr. Macnaghten, the secretary to the Governor-general, of the 26th January, conveys his Lordship's sentiments on the contents of the Minute of the 1st October 1830, recorded by Mr. Mackenzie, on the proceedings of the Finance Committee.

In offering my opinions on the same subjects, I shall follow the order pursued in Mr. Macnaghten's letter.

On the question of the union or separation of the judicial and revenue branches of the public service, I entertain notions entirely in favour of union. Were I myself to venture on a proposal to new modify our civil administration, I should recommend, as the arrangement in my mind best suited to the character of our native subjects, and the best calculated to promote their happiness, the division of the country into small districts, in each of which an European officer should be superintendent, uniting all authorities in his own person; and having under him native officers for the administration of the district in all branches. Several of these districts to be formed into a division, under the control of a superior officer or commissioner, exercising united authority in all branches, and the commissioners to be subordinate to one general superintending authority at the Presidency. I do not think it necessary to enter into detail or argument, because neither do I expect that my proposal could be adopted, nor do I propose so great a change. I am not an advocate for speculative changes, but only for such, the expediency of which is manifest and undeniable; and I entirely concur in the reluctance expressed by the Right honourable the Governor-general to the trial of another experiment, without previous reference to the home authorities. In avowing therefore my opinion in favour of the union of authorities, I do so in order to explain the main principle, to which all my observations on details will be subordinate, and on which I can express my general concurrence in Mr. Mackenzie's Minute, so far as it goes towards that object, without meaning to pledge myself to a concurrence in all its sentiments.

I concur with Mr. Mackenzie and Mr. Hill in advocating the propriety of maintaining the supreme judicial control in the hands of the Government, and I lament that it was ever abandoned. It was a part, and I am inclined to think a good part, of Lord Cornwallis's system of administration. Lord Cornwallis desired, that the rights of the state, when in collision with those of individuals, should undergo a judicial investigation, but never intended to make the interests of the state and the public revenue dependent on the arbitrary decision of subordinate servants, having neither experience nor laws for their guidance. The natives of India are accustomed to look up to their rulers as the supreme power to which they can appeal for justice; and our Government, in depriving itself of that character, committed, I fear, a great error, calculated to lower it in the estimation of its subjects. The utter helplessness of the Government, which cannot redress the grossest injuries to individuals, if they have been judicially committed, seems to me likely to excite any feeling but that of respect or attachment, while the state struggling in vain for justice, before tribunals composed of its servants, deciding according to their own whims and fancies, can only be an object of ridicule. There would be more justification for the abandonment of its control, if there were well-defined laws for the guidance of the judges; but in most countries, originally, the highest judicial functions belonged to the highest powers in the state, and the farther a country is removed from perfection in its laws, the more expedient the possession of this power seems to be. Where then there are no well-defined laws, and the judge often makes the law, instead of administering it; where, moreover, the common law of the country is so little known, or so little attended to, that our judicial tribunals for the most part do not discriminate between actual property in the land and an assignment of Government revenue, two things quite distinct, and generally known to be so, except to the functionaries, at whose feet the rights, power and interests of the state have been laid prostrate; in such a state of things,

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things, the abandonment by the Government of its right of control over the judicial tribunals and of its power of protecting the state against injustice, appears to me to have been most unfortunate. I beg leave to add, that while I regret the act, I reverence the spirit which dictated the Regulation of 1801, although thereby the judicial control before maintained by the Government was abandoned, and the revenue of the state for the future made dependent on the pleasure of its servants, and that in describing the effect of that Regulation, I am far from meaning any disrespect to the many honourable and upright public functionaries who have devoted their talents and labours to judicial duties. I am sensible that the opinions which I entertain on this point are contrary to those that are generally received, and are therefore likely to be misapprehended and impugned. I perceive that I have the misfortune to differ from both the Governor-general and Mr. Blunt on it, generally. Mr. Blunt however, I am happy to observe, admits the propriety of reserving power to the Government in cases in which the public revenue is concerned; a sentiment in which, after the preceding observations, I need hardly say that I entirely concur.

The Governor-general is disposed to sanction the union of the superintendence of the revenue and judicial authorities in those provinces where the public demand is yet unadjusted, in which I entirely concur, on the general principle already stated.

His Lordship likewise approves of uniting the powers of magistrates and collectors in those provinces whenever it may be practicable to do so, with reference to the state of business. In this also I concur, and wherever the union is impeded by excess of business, the object might, I conceive, be best effected by multiplying the number and diminishing the size of districts, rather than by increasing the number of independent officers in each district.

The Governor-general further deems it universally expedient, that the judges should be trained by service in the revenue line, of which there cannot, I conceive, be any doubt.

The union of the offices of tehsildar and thannadar I am happy to see is also approved by his Lordship, as well as the control of magistrates and collectors by commissioners of revenue and police.

The abolition of the existing courts of appeal in the Western provinces, and the substitution of a Sudder Adawlut, composed of judges who are also to be superior revenue commissioners seem also to have his Lordship's approbation, and I should be disposed to concur in those arrangements.

The preference which I entertain for individual instead of collective authorities has been before expressed, and need not be repeated in any detail. That would not prevent my concurrence in such arrangements as may seem expedient under a system of administration, in which collective courts and boards are to be maintained.

The addition to the office of civil judge of the duties of the courts of circuit is an arrangement in which I should entirely concur.

The maintenance of village institutions is, in my opinion, an object of the highest importance, and the gradual introduction of trial by jury is, I conceive, worthy of experiment.

That part of Mr. Mackenzie's Minute which reckons on a saving of eleven lacs of rupees per annum from the execution of his scheme, is scarcely, I think, to be relied on; such prognostications are generally deceitful; and it is impossible to ascertain the expense of any scheme until it has been at work for a considerable time. We find ourselves continually called on to increase our establishments under every scheme of administration that has been adopted.

The Governor-general proposes, that the union of the offices of collector and magistrate and of the functionaries subordinate to them, the transfer of the circuit duties from the commissioners to the district and city judges, where necessary, for the relief of the former, and practicable as to the latter, and the more extended employment of native agency, be adopted without previous reference to the honourable the Court of Directors, and that the other changes of the existing system proposed in the Letter and Minutes of the Finance Committee be submitted for the consideration and orders of the honourable Court; in all which I concur.

I now proceed to express my sentiments on the several propositions contained in Mr. Blunt's Minute of the 24th March, following the order in which they occur.

I entirely concur with Mr. Blunt in thinking it necessary that the native judges should not be independent of the control of European superintending authorities, and that therefore the power of hearing and determining appeals ought to be exercised only by European functionaries—I mean the power of final decision. To an intermediate hearing by native judges of appeals from the decisions of inferior native judges I should not object, provided that their judgments were not final, and that the right of appeal to an European judge were maintained.

Although I should not object to the conferring on native judges the power of taking cognizance of all suits in which natives alone are parties below, or even above, 5,000 rupees; I nevertheless concur with Mr. Blunt, in objecting to the erection of native judges with either civil or criminal jurisdiction over European British subjects, and I would add or that class calling themselves East Indians.

This would be less objectionable, if the situations of judges in the inferior courts were equally open to Europeans or natives, or any other class, because then all having equal privileges would the more readily amalgamate in mutual submission, deference and confidence

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but to establish native judges in those courts exclusively, and to place all other classes of British subjects, European or East Indian, under their jurisdiction would be, I conceive, not only extremely galling to those classes, but the reverse of the natural order of things.

The placing of the administration of justice in the first instance exclusively in the hands of native judges also seems to me to be inconsistent with the extension to Europeans of the right of settling and holding property any where in our dominions, which I consider to be in progress, and to be alike unavoidable and desirable. It is not to be supposed that British subjects, or any other class of Europeans or East Indian Christians, will willingly submit to the exclusive domination of native judges, and as European settlers multiply, it will assuredly be necessary to supply other courts for jurisdiction over their affairs. I should therefore recommend, that British and other European residents, as well as East Indian Christians of European descent, should either be entirely exempt from the jurisdiction of the native judges, or should have the privilege of transferring suits in which they may be concerned from the court of the native to that of the European judge, unless they prefer submission to the jurisdiction of the native, which might always be at their option, and being optional would be more palatable.

I am also of opinion, that native judges ought not to have jurisdiction over matters in which the public revenue or the rights of the state are concerned.

With these exceptions, I trust that the extended employment of native judges for the affairs of native subjects will be beneficial.

I do not quite agree with Mr. Blunt, in thinking it necessary to retain the office of register for the purpose of superintending the native judges. The control over the native judges and the trial of appeals from their decisions would, I conceive, be preferably exercised by the European judge, on account of his greater experience. The register must often be a young man more fit to be taught by the native judges than to control them.

But the office of register would probably be very useful in affording relief and aid to the European judge, and under whatever designation the office may be held, it will probably be found necessary to give the judge some assistance for the discharge of some of the duties now performed by the register. I do not, however, contend for the retention of the office of register: its abolition has been admitted as a part of the plan for the extended employment of native judges, and I am not satisfied that its continuance is indispensable.

Appeals from the decisions of moonsiffs might, I conceive, be heard in the first instance by the principal sudder ameens, subject in all cases to a further appeal to the zillah or city judge; but if the principle of having only one appeal be preferable, then by the European judge only.

Appeals from the decisions of sudder ameens and principal sudder ameens, by the zillah or city judge, with a special appeal to the higher court, whether provincial or sudder.

Mr. Blunt strongly advocates the revival of the office of superintendent of police. It does not strike me that this office is a necessary one. I should think that the local commissioners ought to superintend the police more efficiently than an officer exercising a vastly extensive general control. The institution of a separate superintendent of police would place the collectors and magistrates under two superiors, whose orders would be issued without reference to each other, and would necessarily distract the attention and obedience of the subordinate. This would be quite contrary to the system of unity of authority which I advocate; I am not aware that the state of the police has obviously deteriorated since the abolition of the office of superintendent; and if the commissioners of revenue and circuit be relieved from the duties of the circuit, and become commissioners of revenue and police only, they will have more time to devote to the latter department.

If it is to be admitted as undeniable, that the commissioners of revenue and circuit have not rendered the service expected of them, and that consequently the scheme under which they were appointed is so far a failure, I am disposed to ascribe the failure, in a great degree, to the pressing nature of the duties of the circuit, requiring almost exclusive devotion; and when relieved from those, the commissioners of revenue and police ought, I conceive, to be able to perform their duties efficiently, and the Government will have a right to require it of them.

Should any office, either that of a commissioner or any other, be really overloaded with business which cannot be effectually disposed of by one individual, the proper remedy, I think, would be to diminish the extent of the jurisdiction of that office, and bring it within manageable bounds; but not to depart from the principle, be it of union or otherwise, on which the office was founded.

If the principle of union be good, it is no objection to it that an office may be overloaded with business. The number of united offices in that case must, of course, be increased. I who advocate the union of authority, on the ground that it promotes good government, cannot do otherwise than object to disunion, urged on the ground of one person's being insufficient to perform all the duties of a consolidated office. I should say if that be really the case, relieve him from what he cannot perform, either by giving him assistance in a sufficient number of subordinate functionaries, or by reducing the range of his office within a space over which he can exercise efficient superintendence without extraordinary assistance: those who prefer a division of authority on principle, and judge that the purposes of civil administration are better accomplished by having a separate officer to superintend each department of public business, must of course differ from my opinion.

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Papers respecting Alterations of System in the Judicial Department.

The Governor-general and Mr. Blunt are both in favour of the union of the offices of civil judge and criminal judge, and I entirely concur in that proposal.

Mr. Blunt approves the union of the offices of collector and magistrate in the Western provinces, but not in the Lower. The Governor-general appears to recommend it generally: I am of the same opinion with his Lordship, provided always that more business be not laid on one officer than he can accomplish, and that the efficiency which the Government has an undoubted right to expect, be exacted from every officer employed.

I do not advocate the union of offices, either solely or principally, on the ground of economy; for although I am of opinion that an union of offices is better calculated to promote economy than their separation, I am not so sanguine as to expect economy in any arrangement that may be adopted. The speculations of the Finance Committee on this point are in my opinion delusive. There is an invariable tendency to increase of expense in our establishments, which seems to be a fatality that cannot be resisted.

I concur with Mr. Blunt in the limitations which he proposed to annex to the employment of native judges in the administration of criminal justice—(62d paragraph of Mr. Blunt's Minute).

I also agree in the sentiments which he expressed (64th paragraph) on the subject of the condition of the thannadars in the Lower provinces.

It has been proposed to confer civil judicial powers on revenue officers, during the progress of the settlement of the land revenue in the Western provinces, for the purpose of determining all questions involving claims to proprietary rights, and all matters of rent or revenue in which the interests of individuals or of Government are concerned: Mr. Blunt considers this to be quite necessary. I also am of opinion that it is very desirable, as the revenue officers are the most competent, from knowledge and greater facility of acquiring information, to determine such questions: but supposing that all functions are not in principle united in our superintending officers, and that the judicial branch of our administration remains distinct, I agree with Mr. Blunt in the opinion that all individual powers given to magistrates, collectors, commissioners and Boards, ought to be regarded as temporary only, and to cease when the rights of the agricultural classes and of Government shall have been ascertained and recorded.

Both the Governor-general and Mr. Blunt advocate the establishment of a Revenue Board in the Western provinces. I remain of opinion, that if local superintendence beyond that of the Revenue Commissioners be necessary, it will be more efficiently exercised by individuals than by a Board. For the particular purpose of directing and controlling the settlement of the land revenue, special commissioners might, I conceive, be employed with advantage. But I cannot say that I desire the permanent continuance of a Revenue Board in the Western provinces. If any Board is necessary, one appears to me to be enough. I have before stated, that I do not think a Board so efficient as an individual; but it is unnecessary to urge that opinion, as the question is decided otherwise.

Mr. Blunt proposes great changes in the duties and number of local commissioners, founded on his proposal to relieve them from the superintendence of the police as well as of the circuit. I am not prepared to concur in that proposal, nor in the consequent changes. If the commissioners cease to have the superintendence of the police, the magistrates and the collectors ought to remain separate officers, or otherwise the collector and magistrate would be subordinate in his different capacities to different authorities; an arrangement which appears to me to be very undesirable. I greatly prefer the union of authorities, as well in the superior as in the subordinate officer.

On the question of the abolition of the provincial courts, I have not thoroughly made up my mind; but am at present disposed to agree with Mr. Blunt and the judges of the Sudder Adawlut, that they ought to be retained in the Lower provinces, under the system which separates the judicial from the other branches of the administration, at least until it be shown that they can be dispensed with, as eventually I hope they may be. In the Upper provinces, I should be disposed to abolish the provincial courts, and establish a Sudder Adawlut instead, which should exercise such of the functions now performed by the provincial courts as it might be proper to transfer to a Sudder Adawlut, in preference to the district and city judges. I concur, generally, in the reasoning of Mr. Bayley and Mr. Blunt, in support of the proposition for having a Sudder Adawlut in the Western provinces.

On the principle of union which I advocate, I should not object to the judges of the Sudder Adawlut in the Western provinces being also chief commissioners of revenue; I should indeed support it, as I would every proposition for union of authority. All who are in favour of separation in the several branches of administration must of course be opposed to such an arrangement.

Mr. Blunt declares himself opposed to the introduction of trial by jury into our courts; I should be glad to see the experiment tried. I do not think that it would be desirable at once to give juries of natives the power of final decision in civil and criminal cases, which belong to juries in an English court of law. But it might, I conceive, be useful, if respectable natives were brought to attend our courts, with an official character resembling that of a juror, and to give an opinion on the merits of each case, subject to the confirmation or rejection of the judge, until it might be found advisable to advance further, and give them greater power. The object which I should principally have in view in recommending the introduction of this institution would be the attraction of greater attachment and inclination towards our Government on the part of our native subjects, by inducing them to take

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(6.) Minute of Sir *C. T. Metcalfe*, 11 April 1831.

take a part as freemen in our administration. If the practice would not have that effect, I should scarcely think it worth trial on any other account.

The disaffection at present existing, and noticed both by Mr. Blunt and Mr. Mackenzie, I believe to be universal; but I do not ascribe it to misgovernment, or to any other cause than natural antipathy against foreign conquerors. I do not anticipate much effect in counteracting that feeling from any changes in our administration that we may adopt, or from any thing but time. We are, nevertheless, bound to do all in our power towards it.

With respect to a permanent settlement, I am an advocate for it, wherever it can be effected without a manifest sacrifice of the revenue of the state. Whenever lands are in such an advanced state of cultivation, that little more than the present revenue is to be expected from periodical assessments, I see no objection to a permanent settlement with the real owners of those lands, but think it desirable, as they would then have encouragement to improve their lands for their own exclusive benefit. But where lands are waste, or in a backward state of cultivation, their improvement and advancement may be encouraged by the terms of our periodical settlements, until they yield an adequate revenue, and reach that state in which a permanent settlement would be unobjectionable. With respect to periodical settlements, I should be glad to see them made for long periods.

I now advert to the concluding propositions of Mr. Blunt's Minute of the 24th March; on several of which I have already expressed my sentiments in the foregoing remarks. In signifying my assent or dissent on each proposition in the succession, in which they are brought together, I beg to be understood as being invariably the advocate of union of powers and individual agency; and whenever I assent to a separation of functions, or the collective instrumentality of several, as doing so merely because they are features of the existing system.

Mr. Blunt proposes for the Western Provinces:—

1st. A Court of Sudder Adawlut. This was also proposed by Mr. Bayley. To this I should assent; conceiving, however, that the abolition or absorption of the provincial courts may be coupled with its establishment.

2d. A Board of Revenue. To this I should be disposed to assent, on the footing sanctioned by the opinion of the Governor-general; the judges of the proposed Sudder Adawlut being also chief commissioners of revenue.

3d. A Commissioner of Revenue in each division. There is one at present, but he is also commissioner of police and circuit. The circuit duties being otherwise provided for, I should recommend this officer's being continued as commissioner of revenue and police.

4th. A Civil and Criminal Judge in each district and city, to hold a monthly sessions of gaol delivery. In other words, the duties of the circuit commissioner to be transferred to the district and city judges. So far I entirely concur; but the police I should prefer leaving in the hands of the magistrates, under the control of the commissioners; and the latter would furnish the half-yearly Reports heretofore transmitted by the superintendent of police, and proposed by Mr. Blunt to be transferred to the criminal judges.

5th. A Register to the Civil Court being also assistant to the magistrate, I do not think it necessary to retain precisely the office of registrar; but both the judge and the magistrate will probably derive benefit from assistants. If, however, they be different officers, each ought to have a separate assistant. The same assistant cannot, in my opinion, satisfactorily aid two superiors.

6th. Subordinate Tribunals of Sudder Ameens and Moonsiffs. Agreed.

7th. A Collector of Land-Revenue, being also the magistrate of his district. Agreed.

8th. Sub-Collectors and Joint Magistrates where necessary. To this I see no objection for temporary purposes. But if the duties of a district should be permanently more than the collector and magistrate with his assistants can perform, I should prefer additional collectors and magistrates. Where there may be deputies, they ought, I conceive, to act in subordination to the collectors and magistrates in both departments, and not as at present, with independent powers.

9th. Tehsildars and subordinate officers of Revenue and Police: the office of police thannadar being abolished. I agree.

In the Lower Provinces Mr. Blunt proposes:—

1st. A Sudder Adawlut. This exists at present; and the only difference proposed is a reduction of the number of judges, calculated, I presume, to be feasible in consequence of a diminution of business after the establishment of a similar court in the Western provinces. I concur.

2d. A Revenue Board, to consist of two members. There is one at present containing three. I concur in the change, and should still more like its being converted into a single commissioner, who might be superintendent of revenue and police in the Lower provinces.

3d. Four Revenue Commissioners. I should, in preference, adhere to commissioners of revenue and police, in number as many as requisite.

4th. A Superintendent of Police. I prefer commissioners of police in each division, under a chief commissioner or superintendent of revenue and police for the Lower provinces, instead of a Board of Revenue.

5th. District and City Judges, with civil and criminal jurisdiction and powers, as in the Western provinces. I concur.

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Papers respecting Alterations of System in the Judicial Department.

6th. A Register to the Civil Court, and assistant to the magistrate. My sentiments are the same as those before expressed on the same proposition with regard to the Western provinces.

7th. Subordinate Tribunals of Sudder Ameens and Moonsiffs. I concur.

8th. A Collector of Land Revenue, to be also magistrate in each district. When necessary, a separate magistrate or assistant magistrate to be provided. I concur. But when additional aid may be permanently required, I would make the new officer collector as well as magistrate of his portion of the district, keeping the powers united in both portions.

9th. Police Darogahs and other subordinate police establishment. I concur. Although in the eighth proposition Mr. Blunt proposes the union of the offices of collector and magistrate, he complains in his Minute of the 24th March, and again in that of the 7th April, that he objects to this arrangement in the Lower provinces. He has admitted it among his propositions, solely on the ground of economy. I advocate it on the ground of union of authority, as conducive to efficiency of administration; and all objections to it, founded on excess of business in any instance, I should meet by suggesting the division of the district into portions, with an officer exercising the united functions in each portion; and so with regard to every office in which the union of powers might be objected to on the ground of its causing more business than could be thoroughly executed. To those who dislike the union, and prefer the separation of powers on principle, as right and beneficial in itself, this suggestion would of course be no answer.

The sentiments which I have expressed on Mr. Blunt's propositions are not intended to supersede or affect any concurrence in the opinion entertained by the Right honourable the Governor-general against the adoption of great changes, generally without previous reference to the home authorities. To those which his Lordship is disposed to sanction, I have already expressed my assent.

April 11th, 1831. (signed) *C. T. Metcalfe.*

(7.)—EXTRACT of a MINUTE by Sir *John Malcolm*, Governor of *Bombay*, dated the 10th November 1830.

Code of Regulations.

107. THE first subject connected with the judicial administration of this Presidency which came under my notice was a proposition of the Sudder Adawlut at Surat, to make a considerable alteration in the code of laws which had been established in 1827, and pointing out inconveniences which in their opinion had resulted from some of its provisions and regulations. Satisfied as I was that the new code of Bombay was a great improvement upon the system of our provincial judicature in India, that it was concise, clear and singularly free of technicalities, I could neither upon this occasion nor upon any other (and questions often arose) consent to any modifications or change of its enactments that were not proved to be absolutely necessary; I deemed it also unwise to encumber the code with any forms that could be dispensed with, much less with those minute distinctions and shades of crimes and punishments, necessary perhaps for a society in a more artificial and advanced state, but certainly not for one in the state of that for which we had to legislate. I further thought that enlarging the volume of our laws, and rendering them more difficult to be understood by those for whose benefit they were intended, was in itself an evil. I considered, therefore, the measure proposed as altogether inexpedient. These were the feelings and principles on which my Minute of the 25th March 1828 was written, and I state them in this place to prevent the necessity of recurring again to a subject which came before the Board on many subsequent occasions.

Removal of the Sudder Adawlut from Surat to Bombay.

108. The subject of removing the court of Sudder Adawlut from Surat to Bombay was brought before the Board; many reasons stated in the Minutes recorded at the period the question was discussed, made me adverse to deprive our Northern provinces of an appellant court, and when the Adawlut was established at Bombay, a court of circuit was left at Surat. This was not approved by the Court of Directors, but before their orders were received, a very extensive modification of the judicial system, which gave the power of session judge to those of Guzerat as well as the Deccan, had rendered the court of circuit to the northward unnecessary, part of its duties being executed by the session judge and part by a visiting commissioner.

109. In a Minute forwarded on the contents of a letter from the Sudder Dewanny Adawlut to the acting judicial secretary, I recorded my opinion on a proposition by the session judge of the zillah of Ahmednuggur, for dividing Candeish and Ahmednuggur into separate zillahs, and on various important subjects connected with the administration of the zillah of Ahmednuggur.

Proceedings in the case of Omiah.

110. A Ramoosee chief named Omiah, after having with his followers for a considerable period disturbed the tranquillity of the country in the collectorate of Poonah, and evaded every attempt to apprehend him, had submitted himself to the authority of Government, and furnished information and evidence which led to the conviction before the session judge of one of the principal public servants under the collector of Poonah (Dhundio Punt), on charges

charges of corruption and treason. I availed myself of the opportunity furnished by a letter from the acting collector of Poonah, proposing plans for the employment of Omiah, to record at considerable length the grounds on which I deemed it expedient to overlook the past offences of this individual, and endeavoured to secure his service in aid of the police. The conduct of Dhundio Punt's friends, by whom the justice of his sentence was impugned, obliged me repeatedly to place upon record Minutes connected with this subject, the perusal of which will show in how great a degree the public peace has been hazarded by the persevering efforts of these persons.

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(7.) Minute of Sir *John Malcolm*, 10 Nov. 1830.

111. Nujuf Ali Khan, a prince of Persia, of the tribe of Zund (to whom, when compelled to seek refuge at Bombay, from the apprehended designs against him of the reigning King of Persia, an honourable reception had been given by Mr. Duncan), having at this period, when travelling through our territories, put to death one man and wounded another in an affray with some peons of the farmer of land customs, a question arose as to the necessity and policy of subjecting him to be tried for murder in our zillah courts; on which some of my colleagues differed from me in opinion, deeming the case to be of a nature involving considerations of the highest importance, in the decision of which it was desirable a full council should meet; and Mr. Sparrow being unable to attend in consequence of ill health, the chief secretary, Mr. Newnham, was, by virtue of the power vested in me by Act of Parliament, called to take a seat in council, for the consideration of this subject only. I had previously circulated a Minute in which I reviewed the nature of the evidence against this prince, and stated at large my reasons for considering he should not be brought to trial for the crime alleged to have been committed by him; and Mr. Newnham's opinions coinciding with mine on this subject, Nujuf Ali Khan was confined as a state prisoner in the fort of Tannah, until orders regarding his disposal should be received from the Supreme Government. The measures adopted with regard to this person were afterwards approved of by the Governor-general in Council, and the prince was subsequently sent to Bassorah.

Case of Nujuf Ali Khan.

Vide Minute, 25 April 1829.

112. The urgent necessity for immediate reduction in the expenses of the Civil Administration of this Government induced me to lay before the Board a scheme of administration in the Judicial and Territorial departments, which was subsequently, as far as an observance of the principle of not injuring incumbents would admit, carried into execution.

Reductions and modifications in the Civil Administration. Vide Minute, 1 Dec. 1829.

113. Although the proposition was brought forward principally on the grounds of economy, it possessed an advantage which I had long desired to introduce, that of admitting a more extensive employment of natives, and the limitation of the duties of civil servants, in a greater degree than heretofore, to the supervision and control of inferior agents. It provided also a liberal remuneration for high duties by means of consolidation of offices, and the abolition of some inferior appointments.

114. One of the arrangements proposed in this plan was to bring the Southern Mahratta country under regulation, leaving, however, the offices of political agent, principal collector, judge and session judge, under one person, and giving the assistant judge at Darwar the powers of an assistant at a detached station elsewhere: my reasons for proposing this arrangement are fully described in a separate Minute.

115. The grounds upon which the latter arrangement was made have been more than once questioned, but it is a subject on which I am most earnest, as I have stated on record that no change should be made until the opinion of the Court of Directors is known.

116. There is no country subject to Bombay of which the charge is more arduous, or that is better managed, both in its revenue and judicial branches of administration, than the Southern Mahratta territories, and I ascribe this in a great degree to power being much concentrated in the principal collector and political agent. The Southern Mahratta country is in its administration considerably the most economical of any province under the Presidency, and any change would, in my opinion, increase expense without any adequate benefit; on the contrary, I think it would weaken local authority, augment duties, and be injurious to the public interests.

117. A twelvemonth nearly has elapsed since almost all original civil suits were made over to natives, and there have neither been any complaints nor charges of delinquency to throw a stain upon the equity or purity of their proceedings. I am quite satisfied that, if they are liberally paid, and have proper incentives to action, in the prospect of honourable rewards, there cannot be the slightest doubt of the complete success of this measure. It is recognized by the higher classes as a boon, and while their pride is gratified by the confidence Government reposes in them, that confidence must aid in producing the virtue and integrity which it anticipates. The lower orders, who are saved by an efficient appellant jurisdiction from fear of injury, must deem it a great relief to have their causes tried near their homes, and without those delays which, added to a journey that occupied weeks, and was sometimes impracticable at an inclement season, were felt and complained of as a great hardship.* The inconvenience was not limited to the parties concerned in suits, but to all the evidences, whose complaints were frequent and just, that they were taken from their occupations, and exposed to great fatigue and hazard of health, when compelled to attend, on a summons, at a distance often exceeding one hundred miles during the monsoon.

118. The

* Several complaints were made by the inhabitants of Bhownugger and Gogo to Government, on the hardship of their attendance at Ahmedabad as witnesses during the rains; the complaints were referred to the Judge, whose opinion was, that they must attend.

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Papers respecting Alterations of System in the Judicial Department.

118. The nomination of special judicial commissioners to Guzerat and the Deccan, who receive on their circuit all complaints connected with the administration of justice, must prove an efficient check against abuse, and the Regulations guard against the operation of influence, by providing that, if the local native commissioner has any personal interest in the case, or connexion with the parties, he cannot try it, but must refer it to the English judge, who hears the case himself, or give it to an assistant.

119. I have before brought the incorrectness of the translation of the Regulations to the notice of Government; and it appears, under the change which has occurred, most urgent that these should be early revised and corrected: they form the only rule by which the native local commissioners can be guided; if there are so many omissions and inaccuracies as I am assured there are, frequent mistakes must occur. Mr. Boradaile is, I believe, engaged in this work; but the other occupations of this public officer can give him personally little leisure, and he should have every aid afforded to him to facilitate him in his labours.

120. In closing my remarks on the judicial administration of the provinces of this Presidency, I cannot refrain from stating my opinion, that it is as purely and efficiently administered as any code can be. I quite coincide with Mr. Anderson, an able judge of the Sudder Adawlut, who, in commenting upon the address of the natives of Bombay to Sir John Grant, observes, "Infallibility can never be obtained; erroneous judgments with us, as with others, will occasionally be formed; but this I do say, that no system that we are acquainted with offers more checks to guard that justice in the end is done, and that wrong is not suffered."

121. The great objects to be sought in every system of judicature are publicity, and that the law by which they are protected and punished should be understood and appreciated by those for whose benefit they are intended. This requires a code to be adapted to the habits, information and knowledge of those for whom it is framed. If we legislate in advance of the community, all will be doubt and confusion.

122. It was in attention to these facts that the bulky Regulations of ——— were revised, and the short and excellent code of 1827 substituted. It has been translated into the vernacular languages of our provinces; and the proceedings of our courts, from being conducted in the native language, are understood by all who attend them. I have elsewhere expressed an opinion, that in parts of our dominions inhabited or infested by predatory tribes, this system even must be locally modified, in order to effect the great object of all law, the maintenance of the public peace, and the security of life and property. I feel assured, however, that the present system will, in our more settled provinces, be very early sufficiently understood to make it the best that could have been introduced; but we must never forget that we shall owe its success to its simplicity, it being singularly clear of technicalities, and being adapted, as far as the English Government will admit, to the condition and habits of the natives of India. It is so framed as to admit these into a full share of every branch of the administration of the country.

123. From the information I collected, and particularly from a list of trials given me by Mr. Dunlop, session judge at Poonah, in which he had, as far as the Bombay Regulations admitted, used native juries, I am perfectly satisfied that, in criminal cases, this system will be found to further the ends of justice very materially, while it greatly elevates the most respectable inhabitants of the country. The extent to which we have given natives jurisdiction in civil suits has been already noticed, and there is no measure from which more advantage, financial and political, may be anticipated. But all these fair hopes depend in a great degree upon our code being unaltered, and not ever enlarged, except when positive necessity demands; and still more upon the superiors being a class of men to whom, from personal knowledge and established local character, the natives look up, as they do at present, with respect and affection. They confide implicitly in the justice of their superiors, though they may often believe they are deceived. They also view them as persons who are, from education, long residence in India, and habit, tolerant of their prejudices, and considerate of their usages and religion. They see in them the heads of a system of judicature which, though some of its forms may be at variance with their customs and impressions, is every day becoming more intelligible to them, and has been carefully framed in conformity with their feelings and conditions. This system, as established at this Presidency, has fully met expectation. It may have occurred on some occasions that forms have been neglected, but I am not aware that it has ever been alleged even that it has not proved sufficient to meet every end of justice.

124. That it is susceptible of improvement may be said of every similar institution in the universe; but such improvement can alone be safely made when a necessity arises which absolutely requires it. Any theoretical change will be dangerous, and most of all, one that introduces more conformity with British law, or the employment, in any way associated with the administration of justice in the provinces (beyond cognizance of criminal acts of Europeans), of English judges or English lawyers.

125. I shall not dwell upon the recent events at the Presidency; they are elsewhere fully stated. In my Minute on the subject of the addresses presented to Sir John Grant by the natives of Bombay, I have recorded my opinion of the character* of the inhabitants of this town,

* Treating of the character and condition of the inhabitants of Bombay, in a recent letter to Lord William Bentinck, I observed, "The character of its inhabitants is essentially different from that of the natives of our provinces. These of the latter, often remaining a few years in Bombay, adopt many of the usages

town, and its being completely distinct from that of the population of all the other parts of our territory and provinces. The calumnious and groundless assumptions in the address regarding the desire of the inhabitants of the provinces for the extension of the jurisdiction of the supreme court have been fully exposed; and the address received by me from the natives of the Deccan and Guzerat, which declare their contentment with the actual system and their dread of change, speak, I am assured, the whole sentiments of the whole native population of this Presidency, beyond the precinct of the island of Bombay, within which long usages, their commercial concerns, their knowledge of the English language, their intercourse with Europeans and with Europe, make it as expedient they should be subject to British laws as it would be inexpedient to extend that law beyond its present limits.

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(7.) Minute of Sir *John Malcolm*, 10 Nov. 1830.

126. Much has been written on the subject of an amended system of jurisprudence for India. Those whose local experience has been greatest, have seen the true path of improvement in conceding to the feelings and habits of the natives, and it is upon this principle that such successful changes have been made in the administration of justice at this Presidency; others desire to introduce British law beyond its present limits, and at a moment when the ablest men in England are labouring to revise and reform the law in that country, they would inflict it upon one on which it must, from the language in which it is written, and its multiplied forms and provisions, be unintelligible for at least a century, and where its introduction could prove beneficial to none but those members of the legal profession to whom it opened wide the door of high and profitable employment.

127. It appears by a late communication from the Supreme Government that discussions have taken place between his Lordship in Council and His Majesty's judges of Calcutta, regarding the improvement of the present system, with the object of forming one that will blend more than they now are the powers of the supreme court and those of Government. Having seen no particulars of the proposition made, or the reasons by which they are supported, it would be premature to offer any opinion; but as far as the Presidency of Bombay is concerned, I can anticipate no good that could result from such amalgamation that would not be far outweighed by the evils. Collisions might no doubt be avoided, and courts of British law might be disarmed of many feelings that were unfriendly to the local authorities, if English judges and lawyers were admitted to a share in the Judicial branch of administration in the provinces; but their education and their whole turn of mind would be at variance with many parts of the established system, and the changes they would seek must be with a leaning to the extension of the forms and principles of the law they best understood.

128. They would be slow to admit the value of many of the institutions of the natives or the inflexibility of their usages; they would judge of the character of the inhabitants of distant provinces by those of the Presidency where they dwelt. All this is natural: men cannot resign, as circumstances require, feelings and opinions imbibed in youth and cherished to age; after a certain period of life, neither languages or knowledge of a novel character are easily attained, and much less when the laborious pursuit of a profession, like that of law, affords not one moment of leisure; notwithstanding these facts, however, the knowledge such persons attained, and the opinions they gave, would have more weight in England with numbers than those of the most experienced public servants in India. They would be more suited to all who were not minutely acquainted with the details of Indian Government and the character of its subjects; but beyond all these results, I must think that the introduction of such persons into the higher branches of the administration would progressively depress and deteriorate the civil service. The reasons which induce me to entertain this opinion are numerous, and to my mind conclusive. I shall state them if ever called upon to examine this subject; in the mean time I can only repeat, that the actual system of jurisprudence established in the provinces of this Presidency works well, that the only changes required in it are to modify, in certain instances, those parts of our code which are borrowed from British law, and are alike offensive and unintelligible to rude and proud classes of men, and that the only measure wanting to allay the alarm, and secure the confidence and content of our subjects in the interior, is to draw a clear and distinct line of separation between the court of Adawlut and that of His Majesty's judges at Bombay. If this is done, and measures are taken effectually to protect the civil Government against attacks calculated to weaken its character and authority, nothing further can be required to secure to the inhabitants of this part of India a provincial judicature, which, in whatever light it may be viewed by English judges or English lawyers, familiarised to another system, has in my opinion no defects that would not be greatly aggravated by any change that would approximate it nearer to British law, or made any serious alteration in the present form of its administration.

129. Much

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usages and all the sentiments of the old residents. Government, within the circle of the island, has neither the power of employing them, nor of granting them any particular notice or protection. Their concerns are generally commercial; their disputes regarding them or their property, which consists of houses and lands, are settled by His Majesty's court of justice, which became (as far as any authority over them is recognized) the object of their exclusive attention and respect; circumstances considered, it cannot be otherwise, and it is no doubt desirable that in the principal sea-port of the Western India, which is the residence and resort of so many British subjects, His Majesty's court should command that respect and consideration necessary to its functions; but when the effects produced by the exercise of these are injurious to the good administration of external countries, under a totally different form of rule, the subject demands our most serious consideration."

Appendix, No. 4.

Gaols.

129. Much attention has been paid by this Government, before my arrival, to the improvement of the gaols and prison discipline in the capitals of the provinces of this Presidency; some of these were constructed from former buildings, adapted by judicial alterations for the purpose to which they were applied, while several were constructed new on the most approved plans, two (those of Poonah and Rutnagherry) being panoptican; much pains have been taken to render these prisons healthy, and to give work to all who are confined in them; the success which has attended these latter arrangements has been very great. Employment on the road has been almost wholly discontinued; it was found comparatively unprofitable, and diminished the effect of punishment by the liberty of intercourse it gave to prisoners with their friends; besides, it required strong guards to watch them. In-door labour has been greatly increased, and several gaols fully pay their expenses by their manufactures; which, through able and scientific supervision, are frequently superior in quality to any in the market. Independent of such results, prisoners of all classes are compelled to learn useful trades, and must in many instances be reclaimed from an idle and vicious life to habits of industry, from their daily instruction and employment.

130. I lately proposed, and my colleagues fully concurred in the expediency of the measures, of fixing a large depôt gaol in the fort of Tannah, which, from its security, its vicinity to Bombay, and having water carriage from its gates, is singularly calculated for this purpose. There would be a ready sale for all its produce; and the experience we have of what has been effected at this station with a small number of prisoners, warrants a conclusion, that this depôt gaol when complete, and when all its manufactures, particularly its * rope-walk, are established, will produce a revenue, instead of being an expense to Government. The calculations upon which this conclusion is made are founded on facts and experience, and cannot therefore be erroneous. The amount laid out in the construction of this gaol, however, was estimated to exceed one lac of rupees; and it was deemed necessary, therefore, under the recent order of the court,† to have the sanction of the Court of Directors before the expenditure was incurred; but this will, I trust, be early granted; for besides economical results, it will relieve the gaols of Guzerat, the Deccan and Southern Concans from prisoners of the most dangerous character, and whose influence in the country where they are now confined, makes it necessary to employ many more of our regular army as gaol guard than can be spared for such duties. The removal of such criminals to the depôt would make the most salutary impression, as it would be regarded by predatory men, who have ceased to dread a few years' confinement near their native districts and amid their relations, as a species of transportation; and interrupting their intercourse with their connexions for a period of years, it would impair, if it did not destroy, those ties by which such bands of freebooters are united, and become formidable to the peace of the country.

Police.

201. The magisterial duties are combined with the territorial, and there are good reasons for their continuing to be so; for under the actual form of the administration, the collector can alone possess full information of the state of the districts subject to his authority, and of the character and condition of their inhabitants. I have, since I came to Bombay, recorded several Minutes on the subject of the police. Many improvements have been made out and are now in progress, in this most essential branch of civil administration. My sentiments upon the police of the Southern Mahratta country are given in my Minute upon the Judicial and Revenue administration of that province, and I have recently recorded my opinion upon what has been effected, and what remains to be done in Guzerat. The restoration of the efficiency of the native police in the Southern Concan has been attended with the happiest result, and the Northern Concan is likely to derive much benefit from the means which are now in progress to effect the same object.

202. The hilly and woody parts of the provinces of Candeish and the Deccan, inhabited by Bheels and Ramoosees, are and will continue liable to frequent disturbances, as also the same tracts on the eastern part of Guzerat which are infested by Coolies and other predatory tribes. The establishment of a good police is most difficult, and it has been rendered more so by the extension of our laws in their minutest forms and processes to districts and communities, to whose condition, character and habits they are not adapted, and whom they often furnish with increased means of evading the punishment of their crimes. This subject has been noticed by me in repeated Minutes. I shall in this place sum up in a general manner what I have recommended and propose as the best means of establishing a good police through the provinces, subject to this Presidency.

203. The village system should be strictly maintained or restored where it has decayed, and above all, the patell ought to be well supported and rendered responsible within his circle. This, in all settled countries where it is practicable, will be found the very foundation of all good police, and many sacrifices should be made before it is abandoned, for it is familiar to the people and efficient to the object. Where the inhabitants of a rugged and mountainous part of country are hereditary plunderers (and this is the case in many parts of the Bombay territories), as great a proportion of them as it required should be employed in preserving the peace, for it is only by giving parts of such predatory communities a stake in the general welfare that we can ever hope to make them real converts to the cause of good order. This system

* The experience of two years' trial in the Indian navy has fully established the excellence of the coir rope, when manufactured with the science and care of that furnished by Mr. Renny at Bancoote. The use of this rope is gradually superseding that from England in all running gear, and, in some instances, standing rigging. The saving to Government is very great.

† These orders are, not to expend any amount exceeding R^{s} 10,000 without previous sanction, unless on urgent necessity.

system, with liberal encouragement to all who are disposed to cultivate or to change a rude and hazardous course of life for one of honest and peaceful occupation, would gradually reform this class; and that desirable end can be effected by no other means, for success in severe measures, though it may obtain tranquillity for a period, only aggravates, by the distress it causes, and the spirit of revenge it excites, the motives of this race of men to continue in their habits of warfare and plunder.

204. There is one maxim beyond all others that appears to me of importance in the establishment of a good provincial police, which is the employment of the natives of districts in this duty, to the exclusion of strangers. I have treated this part of the subject in many of my Minutes, but particularly in that on the Revenue and Judicial administrations of Guzerat. Much practical experience in this point (I observe in that Minute) enables me to pronounce, that unless we go to great expense and watch every hamlet, the peace of such countries can only be preserved by their own inhabitants. "To subdue or to suppress rebellion we must send regular troops, but for police duties we should ever look to the natives of the soil.

The common argument of giving service to robbers, and thieves encouraging others, have no weight with me. It is by providing for them honest occupations that they can alone be reformed, and the lead they have taken in predatory courses, when such were prevalent throughout the country, proves that they possess an influence and superiority of character which is calculated to render them, in the hands of those who have talent to use them, the most valuable of all instruments to effect the reform, or repress the excesses, of others. But the fact is, few collectors can spare that time and attention, even when they have sufficient knowledge and energy of character to institute and manage a good local police; and many of the principal native officers they employ will always be adverse to the establishment of any influence in the districts except their own; and if they practise any abuses, they will particularly dislike the employment of persons who, from being natives of the district and having many relations and connexions in it, must possess the fullest information of their proceedings.

205. I was pleased, however, to find among the most respectable native revenue servants that I consulted, several whose sentiments were very decided upon this subject. Nurroba, super-zamavisdar of Koorund, gave me a sensible paper on the police, in which he states the great aid which might be derived from employing the Mehwassie chiefs and natives of the pergunnahs in that branch.

206. "A considerable body of police horse is employed in the Ahmedabad and Kaira collectorates, which are divided into pagas or small parties commanded by jemadars. I saw and heard sufficient of this establishment to satisfy me it was far from efficient. The men were chiefly borgeers, mounted on horses not belonging to themselves, and from some inquiries I made, I must think the horses are the property of natives in the public service, or of their connexions or dependents; whether this was the case or not, the horsemen, like the foot, were generally inhabitants of towns, and unconnected with the districts in which they were employed. This might be a recommendation to an efficient military body of men, but for maintaining an internal police of such countries as I have described, it would be far preferable that in districts which were the residence of Mehwassie chiefs, and possessed by coolies, such as the chawuh and the sabur khanta, the horse employed in them should be natives of the districts."

207. To give practical effect to these views, which have been formed after a long experience of the feelings and habits of similar tribes in Central India, I would propose that the principal collector at Ahmedabad be directed to fill up vacancies in this portion of his police by men of the class to which I have alluded, if past offences are not deemed a bar to such employment, and these men are invited by pardon and forbearance to reform. I have little doubt that, satisfied as they are now of the strength of our rule, we should early benefit from their services. This measure may be gradually introduced, and the situation of jemadars, when opportunities offer, be given to thakoors (chiefs), or their relations, many of whom are enterprising characters, and excellent horsemen. Were this system carefully pursued, and encouragement and support given to the Mehwassies to enter the service, success would, in my opinion, be certain. They should at first be employed in circles within a moderate distance of their native villages.

208. "The change in our police system appeared to me, from local observation, peculiarly required in protecting the peace of the frontier pergunnahs of Berventy, Morassa, Nerefore and Balaninore, to the north-east of Veerungona and Shotten, on the western frontier of Guzerat.

209. "The chief impediment to such a plan would be found in occasional deviation from the strict letter of the Regulations, but these would be treated with indulgence, and knowledge would soon correct them. The district police would in many cases be under detached assistants, who would soon find the great advantage in having it formed of the adherents and connexions of the Mehwassie chiefs, but where it could be done, the charge of the peace of the districts should be committed to the chiefs themselves."

210. "The thakoor of Gorassum, formerly a most troublesome Mehwassie chief,* has now an extensive range of country under his charge, and every inquiry leads me to believe a far better

* I made this chief a present at a crowded durbar, and took occasion to express to him personally the great satisfaction his conduct and the police had given Government.

better police was maintained in it than in any of the neighbouring districts. There can be no doubt that when natives are qualified by personal influence and character, and when they are animated and supported by the regard and confidence of their superiors, they can much better direct and superintend the police of their native country than any European officer; this applies to every part of our territories. In no city is our civil government better established than at Surat, yet every person who knows the facts is satisfied that Ardaseer Bahadur,* who has been recently honoured and rewarded by Government, conducts the duties of the police with an influence and knowledge, and consequently with an efficiency, far beyond what could be expected from the most active and zealous European agency."

211. The police of the provinces, situated like those I have described, will never be complete until there is some modification in its administration.

212. The collector's powers as a magistrate have been recently increased, as well as those of his first assistant, and of the kamavisdars, as native managers of districts; but much remains to be done ere we can effect the object in such *communities as are subject to our rule.* The end of all systems of justice is the decrease, if not the suppression, of crime; at present, the task of seizing the most notorious criminals is easy compared to that of proving their guilt according to the forms and principles of our courts of justice; there is seldom that full evidence they require, and the consequence is, the annual discharge of well-known plunderers to recommence their career of guilt, and to take ample vengeance on those whom they suspect of having aided in their apprehension. If our laws are not modified to meet this great evil, it can alone be mitigated by a change in the executive branch of the police in those provinces that are inhabited by, or subject to the inroad of predatory tribes.

213. The duties of a collector are too heavy to admit of his giving the police of such countries that personal attention which they require, and the changes on promotion and other causes prevent the assistants giving efficient aid to him in a branch which particularly demands constant residence in disturbed and often unhealthy districts, jungles, &c.; add to this what I have stated, that the Regulations, which are found no serious bar to the establishment of a good police in our well cultivated and tranquil provinces, present obstacles that are almost insurmountable to its establishment amid mountains and jungles inhabited by races of rude and uncivilized men. We need not be surprised, until some change is made, either at the number of crimes, or that hardly one year should pass without our being compelled to employ part of our regular army in suppressing bodies irresistible by the civil power.

214. I have elsewhere stated my sentiments on the subject of an improved system of magistracy,† but limiting myself to the actual condition of this Presidency, I can only state that had I remained at Bombay, it was my intention to have proposed that magisterial power to a limited extent should be given to military officers, acting under the collectors and magistrates in command of revenue corps or detachment of regular troops, and stationed in districts that are inhabited or disturbed by predatory classes; a measure from which I am satisfied the greatest benefits to the public peace would result.

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* I had great satisfaction in conferring personally, and with every ceremony that could gratify his pride, a grant of land from Government on this distinguished native, who was at the same time honoured with the title of Bahadur and a gold medal.

† Vide Political History of India.

☞ For a reference to further Papers connected with these discussions, *See* the List of Appendix, No. IV.

Appendix, No. V.

Appendix, No. 5.

(1.) Statement of Tribunals established in *Bengal*, *Madras* and *Bombay*, for the Administration of Justice.

STATEMENTS showing the EXTENT and OPERATIONS of the JUDICIAL ESTABLISHMENTS of the Three PRESIDENCIES.

1.—STATEMENT showing the various TRIBUNALS established in the Provinces of *Bengal*, *Madras* and *Bombay*, for the ADMINISTRATION of JUSTICE, under the REGULATIONS as they stood in the Year 1813, and in the Year 1829, after the Appointment of COMMISSIONERS of REVENUE and CIRCUIT; together with a SUMMARY of the JURISDICTION exercised by the different Classes of TRIBUNALS.

BENGAL, 1813.

COURTS.	SALARY per Annum.	REMARKS.
Sudder Dewanny and Nizamut Adawlut:	*Rupees*	
Chief Judge	55,000	
Puisne Judge	55,000	
Ditto	55,000	
Acting ditto	55,000	
Acting ditto	12,000	This is in addition to his salary of 35,000 rupees per annum as Third Judge of the Provincial Court for Calcutta.
Six Provincial Courts:		
Calcutta:		
First Judge	45,000	
Second Judge	40,000	
Third Judge	35,000	
Patna:		
First Judge	45,000	
Second Judge	40,000	
Third Judge	35,000	
Dacca:		
First Judge	45,000	
Second Judge	40,000	
Third Judge	35,000	
Moorshedabad:		
First Judge	50,000	
Second Judge	40,000	
Third Judge	35,000	
Bareilly:		
First Judge	50,000	
Second Judge	45,000	
Third Judge	40,000	
Benares:		
First Judge	45,000	
Second Judge	40,000	
Third Judge	35,000	

ZILALH AND CITY COURTS.	SALARY per Annum.	ZILLAH AND CITY COURTS.	SALARY. per Annum.
Benares City:	*Rupees.*	Patna City:	*Rupees.*
Judge and Magistrate	32,000	Judge and Magistrate	30,000
Assistant ditto	12,000	Assistant	12,000
Register	6,000	Register	6,000
Dacca City:		Backergunge Zillah:	
Judge and Magistrate	30,000	Judge and Magistrate	24,000
Register	6,000	Register	6,000
Moorshedabad City and Zillah:		Beerbhoom:	
Judge and Magistrate	30,000	Judge and Magistrate	28,000
Assistant Judge	12,000	Register	6,000
Register	6,000		

(continued.)

ZILLAH AND CITY COURTS.	SALARY per Annum.
	Rupees.
Burdwan:	
Judge and Magistrate	30,000
Assistant ditto	12,000
Register	6,000
Chittagong:	
Judge and Magistrate	24,000
Register	6,000
Dacca Jelalpore:	
Judge and Magistrate	27,000
Register	6,000
Dinagepore:	
Judge and Magistrate	30,000
Register	6,000
Hooghly Zillah Court:	
Judge and Magistrate	30,000
Register	6,000
Jessore:	
Judge and Magistrate	26,000
Assistant ditto	12,000
Register	6,000
Jungle Mehals:	
Judge and Magistrate	28,000
Register	6,000
Mymensing:	
Judge and Magistrate	26,000
Register	6,000
Nuddea:	
Judge and Magistrate	30,000
Assistant ditto	12,000
Register	6,000
Purneah:	
Judge and Magistrate	28,000
Assistant ditto	12,000
Register	6,000
Rajeshahye:	
Judge and Magistrate	30,000
Assistant Judge	12,000
Register	6,000
Rungpore:	
Judge and Magistrate	26,000
Register	6,000
Sylhet:	
Judge and Magistrate	24,000
Register	6,000
Tipperah:	
Judge and Magistrate	28,000
Register	6,000
24 Pergunnahs:	
Judge and Magistrate	30,000
Assistant Judge	12,000
Behar:	
Judge and Magistrate	30,000
Register	6,000
Bhaugulpore:	
Judge and Magistrate	25,000
Register	6,000
Ramghur:	
Judge and Magistrate	24,000
Register	6,000
Sarun:	
Judge and Magistrate	30,000
Register	6,000
Shahabad:	
Judge and Magistrate	28,000
Register	6,000
Tirhoot:	
Judge and Magistrate	28,000
Assistant Judge	12,000
Register	6,000
Midnapore:	
Judge and Magistrate	29,000
Register	6,000
Juanpore:	
Judge and Magistrate	28,000
Register	6,000
Mirzapore:	
Judge and Magistrate	30,000
Register	6,000
Allahabad:	
Judge and Magistrate	32,000
Register	6,000
Bareilly:	
Judge and Magistrate	32,000
Register	6,000
Cawnpore:	
Judge and Magistrate	32,000
Register	6,000
Etawah:	
Judge and Magistrate	32,000
Register	6,000
Furruckabad:	
Judge and Magistrate	32,000
Register	6,000
Goruckpore:	
Judge and Magistrate	32,000
Assistant ditto	12,000
Register	6,000
Moradabad:	
Judge and Magistrate	32,000
Register	6,000
Agra:	
Judge and Magistrate	32,000
Register	6,000
Allyghur:	
Judge and Magistrate	33,440
Register	6,260
Bundlecund:	
Judge and Magistrate	32,000
Register	6,000
Cuttack:	
Judge and Magistrate	28,000
Register	6,000
Meerut:	
Judge and Magistrate	33,440
Register	6,260
Seharunpore:	
Magistrate	18,000

In 1812–13 there were 95 *Sudder Ameens*, 89 of whom, as law officers, received a fixed salary of rupees 720 to 1,200 per annum. The remaining six received a fixed salary of rupees 840 per annum. Both classes received fees in the same manner as the Moonsiffs.

The number of *Moonsiffs* was not restricted; they received no fixed salary, but were entitled to a fee of one anna per rupee on the amount in money or value of personal property the subject of the suit.

Appendix, No. 5.

(1.) Statement of Tribunals established in *Bengal*, *Madras* and *Bombay*, for the Administration of Justice.

BENGAL, 1829.

COURTS.	SALARY per Annum.	REMARKS.
	Sicca Rupees.	
Sudder Dewanny and Nizamut Adawlut:		
Chief Judge - - - -	63,000	- - 5,000 extra allowance.
Puisne ditto - - - -	55,000	
Ditto - - - - -	55,000	
Ditto - - - - -	55,000	
Ditto - - - - -	55,000	
Six Provincial Courts:		
Calcutta:		
First Judge - - - -	34,447.8	- - This was the salary fixed in 1829 for future Judges of the Provincial Courts; but individual allowances were not immediately reduced to that standard.
Second ditto - - - -	48,000	
Third ditto - - - -	35,000	
Dacca:		
First Judge - - - -	40,000	
Second ditto - - - -	35,000	
Moorshedabad:		
First Judge - - - -	45,000	
Second ditto - - - -	35,000	
Patna:		
First Judge - - - -	45,000	
Second ditto - - - -	35,000	
Benares:		
First Judge - - - -	45,000	
Second ditto - - - -	35,021.5	
Third ditto - - - -	35,021.5	
Bareilly:		
First Judge - - - -	48,226.8	
Second ditto - - - -	43,059.6	

COMMISSIONERS OF REVENUE AND CIRCUIT.

DIVISION.	SALARIES.	REMARKS.
	Rupees.	
Meerut - - - - - - -	42,000	The salary of Commissioners of Revenue and Circuit for all future appointments was fixed at Sonaut rupees 42,000 per annum, or Sicca rupees 40,189.
Agra - - - - - - -	40,189	
Furruckabad - - - - - -	40,189	
Moradabad - - - - - -	40,189	
Bareilly - - - - - -	40,189	
Humeerpore - - - - - -	40,189	
Allahabad - - - - - -	40,189	
Benares - - - - - -	42,868	- - Including rupees 250 per month personal allowance.
Goruckpore - - - - - -	40,189	
Sarun - - - - - - -	50,000	
Patna - - - - - - -	40,189	
Bhagulpore - - - - - -	42,000	
Bhaulea - - - - - -	40,189	
Moorshedabad - - - - - -	45,000	
Dacca - - - - - - -	42,000	
Chittagong - - - - - -	43,059.6	
Assam - - - - - - -	- - -	- - The office was held by the agent on the N. E. frontier.
Allipore - - - - - - -	42,870.10	
Cuttack - - - - - - -	45,318.12	
Burdwan - - - - - - -	40,189	

(*continued.*)

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

ZILLAH AND CITY COURTS.	AREA.	Population in 1822.	SALARIES.	REMARKS.
L. P.	*Square Miles.*		*Rupees.*	
Dacca City	1,870	512,385		
Judge and Magistrate			28,000	
Register			8,400	
Moorshedabad	1,870	762,690		
Judge and Magistrate			28,000	
Register			7,200	
Patna City	667	255,705		
Judge and Magistrate			28,000	
Register			8,400	
Backergunge	2,780	686,640		
Judge and Magistrate			24,000	
Register			8,400	
Beerbhoom	3,870	1,267,065		
Judge and Magistrate			28,000	
Register			8,400	
Burdwan	2,000	1,187,580		
Judge			28,000	
Magistrate			19,200	
First Register			10,200	
Chittagong	2,980	700,800		
Judge			28,000	
Magistrate			19,200	
Register			7,200	
Dacca Jelalpore	2,585	588,375		
Judge and Magistrate			27,000	
Dinagepore	5,920	2,341,420		
Judge and Magistrate			28,000	
Register and Joint Magistrate at Malda			12,000	
Hooghley	2,260	1,239,150		
Judge and Magistrate			28,000	
Register			8,400	
Jessore	5,180	1,183,590		
Judge			24,000	
Register			7,200	
Jungle Mehals	6,990	1,304,740		
Judge			28,000	
Magistrate			19,000	Moiety chargeable to the Revenue Department.
Register			7,000	Moiety chargeable to the Revenue Department.
Mymensing	6,998	1,454,670		
Judge and Magistrate			26,000	
Register and Joint Magistrate at Sherepore			12,000	
Nuddea	3,105	1,187,160		
Judge			28,000	
Magistrate			19,200	
Register			7,200	
Purnea	7,460	1,362,165		
Judge			28,000	
Magistrate			19,200	
Register			7,200	

ZILLAH AND CITY COURTS.	AREA.	Population in 1822.	SALARIES.	REMARKS.
	Square Miles.		*Rupees.*	
Rajeshye	3,950	4,087,155		
Judge and Magistrate			28,000	
Register and Joint Magistrate at Buggora			12,000	
Rungpore	7,856	1,340,350		
Judge and Magistrate			28,706	
Register			7,200	
Sylhet	3,532	1,083,720		
Judge			24,000	
Collector and Magistrate			28,706	
Tipperah	6,830	1,372,260		
Judge and Magistrate			28,000	
Register and Joint Magistrate at Macolly			12,000	
Register			7,200	
Suburbs of Calcutta	1,105	360,360		
Dewanny Judge and Magistrate and Superintendent of Allipore gaol			28,000	
Register			9,600	
Twenty-four Pergunnahs	3,610	599,595		
Judge and Magistrate			24,000	
Joint Magistrate at Bhaugundee			6,000	
Additional Register			9,600	
Behar	5,235	1,340,610		
Magistrate			24,000	
Register			7,200	
Bhaugulpore	7,270	797,790		
Judge and Magistrate			28,000	
First Register			12,000	
Second ditto			7,200	
Ramghur	22,430	2,252,985		
Magistrate			36,000	Rupees 1,000 per month charged to the Revenue Department.
Assistant ditto			12,000	
Sarun	5,760	1,464,075		
Judge and Magistrate			28,000	
Register			8,400	
Shahabad	4,650	908,850		
Judge and Magistrate			28,000	
Register			7,200	
Tirhoot	7,732	1,697,700		
Judge			28,000	
Magistrate			19,200	
Register			8,400	
Midnapore	8,260	1,914,060		
Judge and Magistrate			28,000	
Register and Joint Magistrate at Nugwan			12,000	
Cuttack, C. D.				
Judge and Magistrate			28,000	
Register			7,200	
Cuttack, S. D.	9,040	1,984,620		
Magistrate			36,000	Rupees 2,000 per month are chargeable to the Revenue Department.
Cuttack, N. D.				
Joint Magistrate			12,000	

(*continued.*)

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

ZILLAH AND CITY COURTS.	AREA.	Population in 1826.	SALARIES.	REMARKS.
W. P.	*Square Miles.*		*Rupees.*	
Benares City	350			
Judge			28,706	
Magistrate			18,372	
Register			6,889	
Ghazeepore	2,850			
Judge and Magistrate			28,706	
Register and Assistant			8,400	
Juanpore	1,820			
Judge and Magistrate			28,706	
Register and Joint Magistrate at Azimghur			11,482	
Second ditto (vacant)			8,400	
Mirzapore	3,650			
Judge and Magistrate			28,706	
Register			6,889	
Allahabad	2,650			
Judge			28,706	
Register			8,400	
Ditto			6,889	
Bareilly	6,900			
Judge and Magistrate			28,706	
Register and Joint Magistrate at Juanpore			11,482	
Second Register			8,400	
Cawnpore	2,650	The total amount of the Population for the Western Provinces is estimated by Mr. Ewer, in his Police Report for 1826, at 32,206,806		
Judge			28,706	
Magistrate			18,372	
Register			8,400	
Etawah	3,450			
Judge and Magistrate			30,000	
Joint Magistrate at Etawah			19,200	-- Rs 1,066. 10. 8. per month chargeable to the Revenue Department.
Ditto at Bilah			25,200	-- Rs 1,400 per month chargeable to the Revenue Department.
Furruckabad	1,850			
Judge and Magistrate			28,706	
Register and Assistant			8,038	
Goruckpore	9,520			
Judge			28,706	
Magistrate			24,113	
Register			84,000	
Moradabad	5,800			
Judge and Magistrate			28,706	
Collector and Joint Magistrate N. D. Moradabad			12,056	
Additional Register			8,038	
Agra	3,500			
Judge and Magistrate			30,000	
Register			6,889	
Allyghur	3,400			
Judge and Magistrate			24,113	
Register			8,038	
Bundlecund, S. D.	4,680			
Judge and Magistrate			30,000	
Register			8,400	
Bundlecund, N. D.				
Judge and Magistrate			30,000	
Register			8,400	

ZILLAH AND CITY COURTS.	AREA.	Population in 1826.	SALARIES.	REMARKS.
	Square Miles.		*Rupees.*	
Meerut - - - - - -	2,250	The total amount of the Population for the Western Provinces is estimated by Mr. Ewer, in his Police Report for 1826, at 32,206,806		
Judge and Magistrate - -	- -		30,000	
Register and Joint Magistrate at Bolundshahur - -	- -		18,372	
Additional Register - -	- -		8,038	
Seharunpore - - - -	3,800			
Judge and Magistrate - -	- -		28,706	
Joint Magistrate at Mozuffumuggur - - - -	- -		6,889	
Register - - - -	- -		6,889	

Sudder Ameens.

To each zillah court is attached a molovee and pundit. The molovee receives 1,200 rupees per annum; the pundit 720 rupees. By virtue of their offices they are *sudder ameens*, and in that capacity receive a further sum of 1,200 rupees per annum. When the sudder ameen is not a molovee or pundit to the court, his salary is about 1,680 rupees per annum. There appear to be 162 sudder ameens, allowing of an allotment of 3 in the limits of each of 22 of the zillah and city courts, and of 4 in each of the 24 others.

Moonsiffs.

There are 849 thannahs. By Regulation XXIII. of 1814, the judges of the several zillahs and cities are empowered, subject to the approval of the provincial court, to nominate an establishment of moonsiffs, whose local jurisdictions shall correspond exactly with those of the thannahs: where circumstances may render it expedient, two or more police jurisdictions may be included within that of one moonsiff. Moonsiffs are compensated for their trouble in the trial of such suits as may be referred to them by the full value of the stampt paper on which the plaint may have been written, which, if the sum claimed does not exceed 16 rupees, is one rupee; if above 16, and not exceeding 32, is two rupees; if above 32, and not exceeding 64, is four rupees; if above 64, and not exceeding 150, is eight rupees.

The moonsiffs are so stationed as to be generally accessible within the extreme distance of 10 miles.

SUMMARY of the JURISDICTION of the different TRIBUNALS in 1829.

The Sudder Dewanny and Nizamut Adawlut

Is authorized to take cognizance of all matters relating to the administration of Criminal Justice and Police:

Is empowered to grant remission or mitigation of punishment in all cases where they may deem the futwah of the law officers unduly severe.

No sentence of death, transportation, or perpetual imprisonment, is to be carried into execution without a previous revision of the trial by this court.

All cases in which the judges may differ from their law officers, are referred for the orders of the sudder court.

They may call for and revise the proceedings of any of the courts, and may suspend from office the judges of the provincial and zillah courts.

In civil cases they may direct suits for property exceeding the value of 5,000 *l.* to be tried originally before them, but their jurisdiction is chiefly appellate.

Their decision is final in all cases, unless the decree appealed against is for a larger value than 5,000 *l.*, in which case an appeal lies to the King in Council.

They may admit second or special appeals from the inferior courts, in any case where the judgment may appear to be inconsistent with any established judicial precedent, or with any Regulation in force, or with the Hindu or Mahomedan law, or with any other law or usage which may be applicable to the case, or where the judgment may involve some point of general interest not before decided by the courts.

Their construction of the Regulations is final.

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

The six Provincial Courts of Appeal.

Suits exceeding 5,000 rupees in value are tried in these courts, unless the plaintiff shall prefer bringing his case before the zillah judge, which he may do if the value does not exceed 10,000 rupees.

Their decisions are final in appeals from the zillah courts, unless a special appeal shall be allowed on any of the grounds above noticed.

These courts have now no criminal jurisdiction.

Commissioners of Revenue and Circuit.

The direction and control of the magistrates and police, and of all the revenue officers, is vested in them.

They hold the sessions of gaol delivery at the different stations of the zillah and city magistatres, which are directed to be held at least twice in each year.

Zillah and City Judges and Magistrates.

As magistrates they have the immediate charge of the police, and are empowered to take cognizance of all offences not of an aggravated character, including affrays, thefts and burglaries, and to punish, as the rules prescribe, to the extent of two years' imprisonment, and corporal punishment not exceeding 30 rattans, and fine.

Persons charged with more heinous offences are by them committed for trial by the commissioner of circuit.

They are required to visit the gaols at least once every week, and to redress all well-founded complaints of ill-treatment.

They are empowered to try original suits to the value of 10,000 rupees.

They decide on appeals from their registers, (when the latter are not specially empowered, in which case the appeal lies to the provincial court,) and from the sudder ameens and moonsiffs, but they may refer appeals from moonsiffs to the sudder ameens.

Registers and Joint Magistrates.

When so specially empowered, registers exercise most of the functions of the magistracy in some specified portion of a district.

They may be authorized to decide causes exceeding 500 rupees in value.

Registers.

Judges may refer for their decision suits not exceeding 500 rupees in value.

Separate Magistrates.

Where these officers exist, the magisterial duties are transferred to them from the zillah judges.

Sudder Ameens.

Magistrates may refer to them for trial all complaints of abusive language, calumny, inconsiderable assaults or affrays, or the like, and charges of petty thefts.

In the first class of cases, the ameens may sentence the persons convicted to 15 days' imprisonment, with fine not exceeding 50 rupees, commutable for 15 days' more imprisonment.

In cases of petty theft, the punishment may extend to 30 rattans, and a month's imprisonment.

Suits to the value of 1,000 rupees may be referred to them for trial.

Appeals from the decisions of moonsiffs may also be referred to them.

Moonsiffs.

May receive and try suits not exceeding in value 150 rupees.

Sudder ameens and moonsiffs are prohibited from taking cognizance of any suit in which a British subject, European, foreigner or American, may be a party.

Note.—In Bengal the collectors of revenue are empowered to hear, investigate and determine by summary process such suits, claims and demands of rent or arrears between landholders, farmers of land, and their under-tenants, &c. as may be referred to them; but such decisions may be contested by a regular suit in any of the courts.

In some instances the collectors and their assistants are vested with magisterial authority; but this is an exception to the general rule.

(1.) Statement of Tribunals established in *Bengal*, *Madras* and *Bombay*, for the Administration of Justice

MADRAS, 1813.

COURTS.	SALARIES.	REMARKS.
Sudder and Foujdarry Adawlut:	*Pagodas.*	
Chief Judge -	No salary put down.	- - Was a member Council.
Senior Puisne Judge - -	14,000	
Junior ditto ditto	14,000	
Provincial:		
Northern Division:		
First Judge -	12,000	
Second ditto -	11,000	
Third ditto - -	10,000	
Centre Division:		
First Judge -	12,000	
Second ditto -	11,000	
Third ditto - -	10,000	
Southern Division:		
First Judge -	12,000	
Second ditto -	11,000	
Third ditto - -	10,000	
Western Division:		
First Judge -	12,000	
Second ditto -	11,000	
Third ditto -	10,000	
ZILLAH COURTS.		
Chingleput:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Masulipatam:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Rajahmundry:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Nellore:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Vizagapatam:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Ganjam:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Madura:		
Judge and Magistrate - -	8,000	
Assistant Judge -	4,800	
Register - -	1,800	
Salem:		
Judge and Magistrate - -	8,000	
Register - -	1,800	

ZILLAH COURTS.	SALARIES.	REMARKS.
	Pagodas.	
Dharapooram:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Chittoor:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Canara:		
Judge and Magistrate -	8,000	
Register - -	1,800	
Verdachellum:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Tinnevelly:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Combaconum:		
Judge and Magistrate - -	8,000	
Assistant Judge -	4,800	
Register - -	1,800	
Trichinopoly:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Malabar, North:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Malabar, South:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Cochin:		
Judge and Magistrate - -	4,800	
Bellary:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Cuddapah:		
Judge and Magistrate - -	8,000	
Register - -	1,800	
Seringapatam:		
Judge and Magistrate - -	4,800	
Register - -	1,800	
39 Sudder Ameens -	- - -	Paid by Fees Salary as Law Officers Pag. 540 or Rs 1,890, Mahomedan Pag. 480 or Rs 1,680, Hindu
Moonsiffs - - -	- - -	- - No fixed number. Paid by Fees

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

MADRAS, 1828-9.

COURTS.	Area.	Population.	Salaries.	REMARKS.
			Rupees.	
Sudder and Foujdarry Adawlut:				
First Judge			49,000	
Second ditto			49,000	
Third ditto			49,000	
Provincial Courts:				
Northern Division:				
Acting First Judge			42,000	
Acting Second ditto			38,000	
Acting Third ditto			35,000	
Centre Division:				
First Judge			42,000	
Second ditto			38,000	
Third ditto			35,000	
Southern Division:				
First Judge			42,000	
Second ditto			38,000	
Third ditto			35,000	
Western Division:				
First Judge			42,000	
Second ditto			38,000	
Third ditto			35,000	
ZILLAH COURTS.				
Chicacole	21,700	1,104,585		
Judge and Criminal Judge			28,000	
Register			6,300	
*Masulipatam	11,050	1,268,157		
Judge and Criminal Judge			28,000	
Register (vacant)			6,300	
Nellore	7,930	439,467		
Judge and Criminal Judge			28,000	
Register			6,300	
Guntoor	4,960	454,754		
Judge and Criminal Judge			28,000	
Register			6,300	
Bellary	11,290	927,857		
Judge and Criminal Judge			28,000	
Register			6,300	
*Cuddapah	12,970	1,094,460		
Judge and Criminal Judge			28,000	
Register			6,300	
Chingleput		818,149		
Judge and Criminal Judge			28,000	
Register			6,300	
Combaconum	7,000	1,382,645		
Judge and Criminal Judge			28,000	
Register			6,300	
*Madura	16,400	1,353,153		
Judge and Criminal Judge			28,000	
Register			6,300	

Appendix, No. 5.

(1.) Statement of Tribunals established in *Bengal*, *Madras* and *Bombay*, for the Administration of Justice.

ZILLAH COURTS.	Area.	Population.	Salaries.	REMARKS.
			Rupees.	
*Salem	16,480	1,714,184		
Judge and Criminal Judge			28,000	
Register			6,300	
*Canara	7,720	657,594		
Judge and Criminal Judge			28,000	
Assistant Judge			16,800	
Register			6,300	
Chettoor		892,292		
Judge and Criminal Judge			28,000	
Register			6,300	
*Malabar	6,060	907,575		
Judge and Criminal Judge			28,000	
Register			6,300	
AUXILIARY COURTS.				
Masulipatam:				
Assistant Judge, Joint Criminal Judge			16,800	
Cumbum (Cuddapah):				
Assistant Judge, Joint Criminal Judge			16,800	
Tinnevelly:				
Assistant Judge, Joint Criminal Judge			16,800	
Salem:				
Assistant Judge, Joint Criminal Judge			16,800	
Canara:				
Assistant Judge, Joint Criminal Judge			16,800	
Malabar:				
Assistant Judge, Joint Criminal Judge			16,800	
Colligole:				
Native Judge			6,000	
18 Collectors and Magistrates			30,450	
13 Sub-Collectors, or Assistants to Magistrates			14,000	
166 Tehsildars, from			840 a' 2,100	
30 Sudder Ameens			Paid by Fees	Salary as Law Officers: Rs 2,520 Mahomedan. Rs 1,680 Hindu. --With fees of one anna per rupee on suits instituted before them, as in the case of the Sudder Ameens.
95 Moonsiffs			840	

* In each of the districts so marked there is an Auxiliary Court, with nearly all the powers of a Zillah Court, so that in fact there are two courts in each of them.

Appendix, No. 5.

Summary of the Jurisdiction of the different Tribunals.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

Before the year 1816 the Madras judicial arrangements were modelled on those of Bengal, and in the higher branches the system has not been materially changed.

The Sudder Dewanny and Foujdarry Adawlut.

The chief civil and criminal court, with the same jurisdiction as the Sudder Court, at Calcutta; but suits of any amount may be appealed to the King in Council.

The Four Provincial Courts,

May try such original suits as are referred to them by the Sudder Court, but, as in Bengal, their jurisdiction is chiefly appellate.

The circuit duties are performed twice a year by judges of these courts.

Zillah Judges (called Judges and Criminal Judges),

May try original suits to any amount, and hear appeals from the inferior jurisdictions, as in Bengal. Assistant judges are limited to the trial of suits not exceeding 5,000 rupees.

Criminally, these two classes of officers may try offences not attended with loss of life or other aggravating circumstances, and may punish by imprisonment, not exceeding two years, 30 stripes, or fine of 200 rupees.

Sudder Ameens,

May decide suits to the value of seven hundred and fifty rupees.

District Moonsiffs,

Decide suits to the value of 500 rupees. They may also decide by punchayet any suits which both parties may agree to have so settled.

Collectors and Sub-Collectors,

Are vested with the magistracy and charge of the police.

As magistrates, they take cognizance of charges of abusive language, calumny, inconsiderable assaults or affrays, or the like; and may punish to the extent of 15 days' imprisonment, or fine of 50 rupees. They may also punish petty thefts with a month's imprisonment, or 30 stripes.

Tehsildars, as Heads of District Police,

Are empowered to take cognizance of similar petty cases, and to impose a fine of 1 rupee, 24 hours' imprisonment, or 6 hours in the stocks.

In cases of thefts not exceeding 5 rupees value, they may fine to the extent of 3 rupees, with six strokes of the rattan; but in these cases they are required to make an immediate report to the magistrate.

Potails, as Heads of Villages,

Are vested with a still minor authority in such cases, and empowered to punish by 12 hours' imprisonment, or 6 hours in the stocks.

Potails are also authorized to decide, without appeal, such suits to the value of 10 rupees as may be brought before them.

They are also empowered with a punchayet to decide any cases which both parties may be desirous of having so settled.

There are supposed to be about 32,000 potails, but very few of them act at all.

Letter from *Madras* Government, 2d November 1830.

Some further changes are understood to be in progress, or in contemplation, viz.

The substitution for the four provincial courts of appeal and circuit, of seven division judges of appeal and circuit, with an assistant to each.

The jurisdiction of the sudder ameens to be raised from 750 to 3,000 rupees.

These officers to be vested with powers of committal and punishment, as exercised by the criminal judges; but their sentences to be previously sanctioned by the judge.

The jurisdiction of the district moonsiffs to be raised from 500 to 1,000 rupees.

Appendix, No. 5.

(1.) Statement of Tribunals established in *Bengal*, *Madras* and *Bombay*, for the Administration of Justice.

BOMBAY, 1812-13.

COURTS.	Area.	Population.	Salaries.	REMARKS.
			Rupees.	
Sudder Adawlut:				
Court of Circuit and Appeal:				
First Judge	- -	- -	32,000	
Second ditto	- -	- -	25,000	
Third ditto	- -	- -	20,000	
Salsette:				
Judge	- -	- -	20,000	
Surat:				
Judge and Magistrate	- -	- -	28,000	
Assistant to Magistrate	- -	- -	4,800	
Broach:				
Judge and Magistrate	- -	- -	20,000	
Assistant to ditto	- -	- -	1,800	
Kaira:				
Judge and Magistrate	- -	- -	20,000	
Assistant to ditto	- -	- -	1,800	
Four Sudder Ameens	- -	- -	- -	- - Salary as Law Officers: Rs 600 lowest & 900 highest.
1828-29.				
Sudder Dewanny and Sudder Foujdarry Adawlut:				
Chief Judge	- -	- -	no allowance	A Member of Council.
Puisne ditto	- -	- -	40,000	
Ditto - ditto	- -	- -	36,000	
Ditto - ditto	- -	- -	35,000	
Provincial Court of Appeal and Circuit in Guzerat:				
Chief Judge	- -	- -	30,000	Since abolished.
Second ditto	- -	- -	30,000	
Southern Concan	6,770	640,857		
Judge and Criminal Judge	- -	- -	24,000	
Register and Senior Assistant to ditto	- -	- -	5,600	
Northern Concan	- -	387,264	- -	- - The Southern and Northern Concan have been since united into one district.
Judge and Criminal Judge	- -	- -	24,000	
Register and First Assistant to ditto	- -	- -	5,600	
Surat	1,350	454,431		
Judge and Criminal Judge	- -	- -	28,000	
Register and Assistant to ditto	- -	- -	6,000	
Broach	1,600	229,527		
Senior Assistant Judge and Criminal Judge	- -	- -	7,200	
Junior ditto - ditto	- -	- -	3,600	
East Zillah N. of the Myhee, viz.				
Ahmedabad and (late) Kaira	6,450	1,012,808		
Judge and Criminal Judge	- -	- -	28,000	
Register and Senior Assistant to ditto	- -	- -	5,400	
Poona	- -	487,717		
Judge and Criminal Judge	- -	- -	33,600	
Register	- -	- -	7,200	
Sholapore (part of Poonah):				
Senior Assistant Judge	- -	- -	12,600	
Ahmednuggur	- -	650,000		
Judge and Criminal Judge	- -	- -	33,600	
First Assistant ditto	- -	- -	9,000	

(*continued.*)

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

COURTS.	Area.	Population.	Salaries.	REMARKS.
Candeish - - - - -	12,430	417,976	*Rupees.*	
Acting Senior Assistant Criminal Judge - -	- -	- -	12,600	
10 Principal Collectors and Magistrates - - -	- -	- -	24,000	
1 Sub-Collector and Magistrate - - - -	- -	- -	16,800	
10 Assistant Collectors -	- -	- -	12,000	
79 Koomashdars or Camavisdars - - - -	- -	- -	600 lowest a' 3,600 highest.	Same as Tehsildars at Madras.
4 Sudder Ameens - -	- -	- -	- - -	Paid by fees. Those of this number of Sudder Ameens who are native law officers, receive a salary of 1,200 rupees per annum.
79 Moonsiffs and District Commissioners - -	- -	- -	- -	Paid by fees.

The average Receipts of the Sudder Ameens, Moonsiffs and District Commissioners vary very much, being in the first half of 1827, 191 rupees a month each; and in the first half of 1828, 322 each.

It is understood to be in contemplation to grant them fixed salaries instead of fees.

THE Bombay judicial arrangements did not, till recently, differ in any material degree from those of Madras.

The modifications which have been recently introduced into those arrangements may be concisely stated to consist, as regards the administration of civil justice, in assigning to the native commissioners the cognizance, with certain exceptions, of all original suits, providing, as the case may be, a regular gradation of appeal to the judge, his assistant, or the Court of Sudder Dewanny Adawlut, to which one judge has been added, exclusive of a member of council, whose functions as chief judge are limited to his officiating as such, when a competent court cannot otherwise be had.

The court of circuit and appeal at Surat has been abolished.

In the branch of criminal jurisprudence, the magistrates, who are also collectors of revenue, and their assistants, are authorized to adjudge sentences of fine and ordinary imprisonment, with hard labour for one year, but sentences beyond three months, passed by the assistants, are referrible to the magistrate for confirmation, and all other sentences may be revised by him.

District police officers are empowered to punish petty offences by fine, not exceeding 15 rupees, and confinement, not exceeding 20 days.

The system of *Session Judges*, embracing the former functions and jurisdiction of a criminal judge and court of circuit, has been extended to all the territories under the Government.

Two judges of the sudder court, under the denomination of Visiting Commissioners of Circuit, are directed to make an annual circuit of inspection, one to Guzerat and the Concans, the other to the Deccan and the Southern Mahratta country, with all the powers to revise and correct the proceedings of the judicial officers which were formerly exercised by the court of circuit.

At Bombay the criminal law is administered under the provisions of a written code, so that the Mahomedan law is not even *nominally* administered there.

This plan is intended to be followed at Madras.

Regulation IV. of 1827.

The Bombay Regulations also recognize the employment of assessors or jurymen in civil and criminal cases, in the following modes:

"In the trial of suits, it shall be competent to every court in which an European authority presides, to avail itself of the assistance of respectable natives, in either of the three following ways:

"*First.*—By referring the suit, or any point or points of the same, to a punchait of such persons, who will carry on their inquiries apart from the court, and report to it the result. The reference to the punchait, and its answer, shall be in writing, and shall be filed in the suit.

"*Clause Second.*—By constituting two or more such persons assessors or members of the court, with a view to the advantages derivable from their observations, particularly at the examination of witnesses, the opinion of each assessor shall be given separately, and discussed; and if any of the assessors, or the authority presiding in the court, shall desire it, the opinions of the assessors shall be recorded in writing in the suit.

"*Clause*

Appendix, No. 5.

(1.) Statement of Tribunals established in *Bengal*, *Madras* and *Bombay*, for the Administration of Justice.

"*Clause Third.*—By employing them more nearly as a jury, they will then attend during the trial of the suit, will suggest, as it proceeds, such points of inquiry as occur to them, the court, if no objection exists, using every endeavour to procure the required information, and, after consultation, will deliver in their opinion.

"*Clause Fourth.*—It is to be clearly understood, that under all the modes of procedure described in the three preceding clauses, the decision is vested exclusively in the authority presiding in the court."

The foregoing rules are extended to criminal trials by Clause 5, Section xxxviii. Regulation XIII. 1827.

Darwar, or the Southern Mahratta country, with a population of 684,193, is not administered by a separate judicial establishment, but by the principal collector and his assistants, aided by a register. The administration is conducted under the provisions of the General Regulations, and subjected to the superintendence of the visiting judge of the sudder court.

STATEMENTS exhibiting the Operations of the different TRIBUNALS at the THREE PRESIDENCIES, in the disposal of CIVIL and CRIMINAL CASES.

(2.)—BENGAL CIVIL STATEMENTS.

LIST.

I. —STATEMENT of the number of Civil Suits depending at the beginning and end of the year 1813, and instituted and decided or adjusted during that year, before the Judges and other officers of the Zillah and City Courts in the Lower Provinces - - - - - - - - - - - - - - - p. 538

II.—A similar STATEMENT as to the Western Provinces - - - - - p. 540

III.—GENERAL SUMMARY of the number of Civil Suits depending at the beginning and end of 1813, and instituted and decided or adjusted during that year, in the Sudder Dewanny Adawlut and the Provincial and Zillah Courts - - p. 542

IV.—ABSTRACT of the total number of regular Civil Suits (including Appeals), depending at the beginning and end of 1828, and disposed of during that year, in each of the Zillah and City Courts, the Provincial Courts, and the Sudder Dewanny Adawlut - - - - - - - - - - - - - - - p. 544

V.—STATEMENT of the number of regular Suits depending at the beginning and end of 1828, and disposed of during that year, before the Judges and other officers of the Zillah and City Courts in the Lower Provinces - - - - - p. 546

VI.—A similar STATEMENT as to the Western Provinces - - - - p. 548

VII.—STATEMENT of Appeals, regular and special, depending, and disposed of before the Sudder Dewanny Adawlut in 1828, with the amount of the property in question - - - - - - - - - - - - - - - p. 548

VIII.—STATEMENT showing the total value or amount of the regular Suits (original and in appeal), depending in the several Civil Courts on the 1st January 1829, p. 550

IX.—STATEMENT of the number of regular Suits depending on the 1st January 1828 and 1st January 1829, and disposed of in 1828, in the several classes of Courts in the Western and Lower Provinces - - - - - - - - - p. 552

X.—STATEMENT of the number of regular Suits (original and in appeal) depending, admitted and disposed of, in the several Provincial Courts in each year since they have consisted of four Judges, viz. from 1815 to 1828 inclusive - - p. 552

XI.—COMPARATIVE STATEMENT of the number of regular Suits depending in the several Courts on the 1st of January 1815 and the 1st of January 1829 - p. 554

XII.—STATEMENT showing the time which would elapse before the decision of the regular Suits depending on the 1st of January 1829, if calculated according to the number disposed of in the several Courts during the year 1828 - - - - p. 555

XIII.—A similar STATEMENT, calculated according to the average number of Decisions during the five years, 1824 to 1828, both inclusive - - - - p. 554–5

XIV.—STATEMENT of the number of summary Suits depending at the beginning and end of 1828, and disposed of during that year, in the several Provincial and District Courts - - - - - - - - - - - - - - - p. 556

XV.—STATEMENT of summary Suits under reference to the Collectors for Adjudication, and disposed of by them in 1828 - - - - - - - - p. 560

XVI.—TABLE showing the number of Suits instituted, decided and depending in the several classes of Courts, and the average delay in each, in 1810, 1815, 1820 and 1825 - - - - - - - - - - - - - - - p. 561

I.—CIVIL SUITS depending at the Beginning and End of the Year 1813, and instituted, decided and adjusted

Before the - - -	Judges and Assistant Judges.					Registrars.					Head Native -	
NAMES OF ZILLAHS.	Depending on 1st January 1813.	Decreed or Dismissed.	Adjusted.	Total of the two preceding Columns.	Remaining 1st January 1814.	Depending 1st January 1813.	Decreed or Dismissed.	Adjusted.	Total of two last Columns.	Depending 1st January 1814.	Depending 1st January 1813.	Decreed or Dismissed.
CALCUTTA DIVISION.												
Burdwan - - - -	1,380	412	30	442	J. 1,342 A. 297	421	429	63	492	312	2,420	2,788
Cuttack - - - -	44	80	7	87	74	21	24	14	38	–	78	184
Hooghly - - - -	636	68	15	83	749	557	160	70	230	721	1,111	669
Jessore - - - J.	328	371	8	379	J. 684	262	117	20	137	272	784	373
Jessore - - - A.	151				A. 110							
Jungle Mehals - - -	214	255	7	262	209	151	217	21	238	130	220	376
Midnapore - - - J.	567	399	70	469	454	102	95	12	107	162	113	191
Midnapore - - - A.	89											
Nuddea (Judge and Assistant)	1,072	71	8	79	464	556	314	55	369	361	968	1,312
24 Pergunnahs - - J.	660	377	24	401	J. 1,060	335	183	35	218	375	1,372	441
24 Pergunnahs - - A.	703				A. 501							
	5,844	2,033	169	2,202	5,944	2,405	1,539	290	1,829	2,333	7,066	6,334
DACCA DIVISION.												
Buckergunge - - -	274	151	3	154	303	232	70	–	70	329	92	78
Chittagong - - - -	654	251	32	283	1,605	589	650	128	778	180	616	508
Dacca City - - - -	316	66	17	83	407	188	156	40	196	138	614	442
Dacca Jelalpore - - -	318	142	5	147	246	108	118	19	137	79	466	234
Momensing - - - -	532	147	6	153	591	206	112	12	124	174	386	232
Sylhet - - - - -	289	118	1	119	267	99	164	–	164	206	75	117
Tipperah - - - -	147	127	2	129	160	116	122	12	134	149	147	301
	2,530	1,002	66	1,068	3,579	1,538	1,392	211	1,603	1,255	2,396	1,912
MOORSHEDABAD DIVISION.												
Beerbhoom - - - -	401	37	14	51	305	413	78	33	111	385	901	865
Bhaugulpore - - -	225	107	9	116	294	98	142	8	150	43	573	593
Dinagepore - - - -	551	215	17	232	511	148	151	15	166	99	1,328	2,255
Moorshedabad City - J.	384	263	13	276	572	253	213	57	270	198	–	380
Moorshedabad City - A.	283											
Purneah - - - -	1,124	178	26	204	1,263	457	228	43	271	362	2,725	2,104
Rajeshahye - - - J.	49	264	39	303	J. 191	274	65	35	100	368	1,030	1,232
Rajeshahye - - - A.	346				A. 140							
Rungpore - - - -	95	212	73	285	186	72	175	53	228	91	290	496
	3,458	1,276	191	1,467	3,462	1,715	1,052	244	1,296	1,546	6,847	7,925
PATNA DIVISION.												
Behar - - - - -	496	203	21	224	634	314	139	34	173	381	463	304
Patna City - - - -	752	316	73	389	J. 82 A. 445	201	217	43	260	195	238	169
Ramghur - - - -	110	85	4	89	138	113	146	12	158	155	–	–
Sarun - - Judge -	330	289	23	312	352	125	99	19	118	133	110	226
Sarun - - Collector -	333											
Sarun - - Assistant J.	66											
Shahabad - - - -	68	148	–	148	73	156	197	–	197	103	190	272
Tirhoot - - - J.	824	285	26	311	J. 1,066	141	121	22	143	180	325	575
Tirhoot - - - A.	710				A. 499							
	3,689	1,326	147	1,473	3,289	1,050	919	130	1,049	1,147	1,326	1,546
	15,521	5,637	573	6,210	16,274	6,708	4,902	875	5,777	6,281	17,635	17,717

during that Year, in the ZILLAH and CITY COURTS of the LOWER PROVINCES, under the Presidency of *Bengal*.

[*With respect to the Number of Suits instituted, see the Note on the corresponding Table for the Western Provinces.*]

- Commissioners.			Mofussil Native Commissioners.					TOTAL.					
Adjusted.	TOTAL of the two last Columns.	Depending 1st January 1814.	Depending 1st January 1813.	Decreed or Dismissed.	Adjusted.	TOTAL of the two last Columns.	Depending 1st January 1814.	Depending 1st January 1813.	*Instituted during the Year.*	Decreed or Dismissed.	Adjusted.	TOTAL of the two last Columns.	Depending on 1st January 1814.
87	2,875	1,997	2,609	3,421	1,353	4,774	2,300	6,830	8,001	7,050	1,533	8,583	6,248
7	191	97	1,549	4,439	99	4,538	2,126	1,692	5,459	4,727	127	4,854	2,297
178	847	1,295	2,317	2,018	763	2,781	2,507	4,621	4,592	2,915	1,026	3,941	5,272
69	442	882	3,016	4,651	615	5,266	3,152	4,541	6,783	5,512	712	6,224	5,100
7	383	244	887	1,452	160	1,612	717	1,472	2,323	2,300	195	2,495	1,300
88	279	106	6,344	5,631	4,865	10,496	6,412	7,215	11,270	6,316	5,035	11,351	7,134
410	1,722	933	8,154	8,646	3,118	11,764	5,930	10,750	10,872	10,343	3,591	13,934	7,688
53	494	1,751	7,984	8,626	1,669	10,295	8,446	10,054	13,487	9,627	1,781	11,408	12,133
899	7,233	7,305	31,860	38,884	12,642	51,526	31,590	47,175	62,787	48,790	14,000	62,790	47,172
–	78	93	37	–	–	–	37	635	429	299	3	302	762
34	542	704	1,115	373	3	376	1,094	2,974	2,588	1,782	197	1,979	3,583
69	511	499	1,095	1,221	300	1,521	803	2,213	1,945	1,885	426	2,311	1,847
38	272	498	2,456	2,806	625	3,431	2,322	3,348	3,784	3,300	687	3,987	3,145
15	247	360	3,501	2,531	1,021	3,552	4,027	4,625	4,603	3,022	1,054	4,076	5,152
1	118	127	1,303	4,042	1,293	5,335	1,451	1,766	6,021	4,441	1,295	5,736	2,051
60	361	188	1,321	2,101	1,862	3,963	1,547	1,731	4,990	2,651	1,936	4,587	2,044
217	2,129	2,469	10,828	13,074	5,104	18,178	11,281	17,292	24,270	17,380	5,598	22,978	18,584
72	937	764	1,235	1,607	35	1,642	1,232	2,950	2,477	2,587	154	2,741	2,686
70	663	665	2,746	4,107	324	4,431	3,132	3,642	5,852	4,949	411	5,360	4,134
25	2,280	1,070	7,019	7,381	2,671	10,052	2,220	9,046	7,584	10,002	2,728	12,730	3,900
64	444	748	1,512	1,751	128	1,879	1,328	2,432	3,283	2,607	262	2,869	2,846
552	2,656	2,542	12,585	12,254	4,480	16,734	10,795	16,891	17,936	14,764	5,101	19,865	14,962
145	1,377	1,151	5,872	5,247	1,908	7,155	6,772	7,571	9,986	6,808	2,127	8,935	8,622
88	584	214	2,348	8,843	2,928	11,771	1,747	2,805	12,301	9,726	3,142	12,868	2,238
1,016	8,941	7,154	33,317	41,190	12,474	53,664	27,226	45,337	59,419	51,443	13,925	65,368	39,388
196	500	523	815	809	218	1,027	1,045	2,088	2,419	1,455	469	1,924	2,583
17	186	245	321	210	7	217	277	1,512	784	912	140	1,052	1,244
–	–	–	1,327	2,427	304	2,731	1,630	1,550	3,351	2,658	320	2,978	1,923
57	283	187	531	88	4	92	441	1,495	423	702	103	805	1,113
–	272	255	134	214	–	214	192	548	906	831	–	831	623
121	696	313	2,950	3,637	548	4,185	3,511	4,950	5,954	4,618	717	5,335	5,569
391	1,937	1,523	6,078	7,385	1,081	8,466	7,096	12,143	13,837	11,176	1,749	12,925	13,055
2,523	20,240	18,451	82,083	100,533	31,301	131,834	77,193	121,947	160,313	128,789	35,272	164,061	118,199

II.—CIVIL SUITS depending at the Beginning and End of 1813, and instituted, decided and adjusted

Before the - - -	Judges and Assistant Judges.					Registrars.					Head Native -	
NAMES OF ZILLAHS.	Depending 1st January 1813.	Decreed or Dismissed.	Adjusted.	Total of the two preceding Columns.	Depending 1st January 1814.	Depending 1st January 1813.	Decreed or Dismissed.	Adjusted.	Total of the two preceding Columns.	Depending 1st January 1814.	Depending 1st January 1813.	Decreed or Dismissed.
BAREILLY DIVISION.												
Agrah - - - - -	13	31	6	37	21	100	82	34	116	47	80	153
Allyghur - - - - -	198	64	20	84	220	154	144	21	165	75	537	762
Bareilly - - - - -	184	81	–	81	227	175	190	–	190	144	158	540
Cawnpore - - - - -	274	91	22	113	310	185	194	11	205	189	–	–
Etawah - - - - -	101	48	4	52	66	103	41	14	55	121	–	–
Furruckabad - - -	101	136	33	169	145	129	159	25	184	47	–	–
Moradabad - - - - -	167	96	7	103	185	103	130	10	140	93	306	284
Seharunpore - - -	111	74	50	124	113	169	65	66	131	243	209	278
	1,249	621	142	763	1,287	1,118	1,005	181	1,186	959	1,290	2,017
BENARES DIVISION.												
Allahabad - - - - -	261	50	9	59	282	178	107	27	134	118	–	–
Bundelcund - - - - -	281	99	10	109	84	136	54	5	59	280	441	222
Benares City - - - -	954	208	39	247	J. 675 A. 115	248	118	16	134	266	324	323
Goruckpore - - - - -	782	595	18	613	J. 250 A. 152	267	121	1	122	201	147	70
Juanpore - - {Judge / Assist^{t}}	171 / 249	163	18	181	422	147	148	9	157	111	335	219
Mirzapore - - - - -	456	235	23	258	362	161	158	24	182	162	113	191
TOTAL BENARES D.	3,154	1,350	117	1,467	2,342	1,137	706	82	788	1,138	1,360	1,025
TOTAL of the WESTERN PROVINCES - -	4,403	1,971	259	2,230	3,629	2,255	1,711	263	1,974	2,097	2,650	3,042
TOTAL of the LOWER PROVINCES - - (*vide* Statement, No. I.)	15,521	5,637	573	6,210	16,274	6,708	4,902	875	5,777	6,281	17,635	17,717
TOTAL of all the PROVINCES	19,924	7,608	832	8,440	19,903	8,963	6,613	1,138	7,751	8,378	20,285	20,759

during that Year, in the ZILLAH and CITY COURTS of the WESTERN PROVINCES, under the Presidency of *Bengal*.

[The Number of Suits instituted during the Year is not stated in the Returns. The Numbers in the Column headed "Instituted during the Year," have been obtained by adding together the numbers in Columns 5 and 6 of the Totals, and subtracting from the Amount the Numbers in Col. 1.]

Commissioners.			Mofussil Native Commissioners.					TOTAL.					
Adjusted.	TOTAL of the two preceding Columns.	Depending 1st January 1814.	Depending 1st January 1813.	Decreed or Dismissed.	Adjusted.	TOTAL of the two preceding Columns.	Depending 1st January 1814.	1. Depending 1st January 1813.	2. *Instituted during the Year.*	3. Decreed or Dismissed.	4. Adjusted.	5. TOTAL of the two last Columns.	6. Depending 1st January 1814.
130	283	92	–	–	–	–	–	193	403	266	170	436	160
145	907	583	315	522	54	576	255	1,204	1,661	1,492	240	1,732	1,133
–	540	363	–	–	–	–	–	517	1,028	811	–	811	734
–	–	–	449	471	197	668	502	908	1,079	756	230	986	1,001
–	–	–	491	274	363	637	330	695	566	363	381	744	517
–	–	–	438	392	182	574	392	668	843	687	240	927	584
88	372	326	382	890	245	1,135	458	958	1,854	1,400	350	1,750	1,062
672	950	500	–	–	–	–	–	489	1,572	417	788	1,205	856
1,035	3,052	1,864	2,075	2,549	1,041	3,590	1,937	5,732	8,906	6,192	2,399	8,591	6,047
–	–	–	1,463	2,430	412	2,842	1,277	1,902	2,810	2,587	448	3,035	1,677
148	370	527	–	–	–	–	–	858	571	375	163	538	891
28	351	548	1,313	1,942	281	2,223	1,512	2,839	3,232	2,591	364	2,955	3,116
3	73	180	1,149	2,207	103	2,310	1,368	2,345	2,924	2,993	125	3,118	2,151
44	263	412	720	1,965	282	2,247	991	1,622	3,162	2,495	353	2,848	1,936
88	279	106	6,344	5,631	4,865	10,496	6,412	7,074	11,283	6,215	5,000	11,215	7,142
311	1,336	1,873	10,989	14,175	5,943	20,118	11,560	16,640	23,982	17,256	6,453	23,709	16,913
1,346	4,388	3,737	13,164	16,724	6,984	23,708	13,497	22,372	32,888	23,448	8,852	32,300	22,960
2,523	20,240	18,451	82,083	100,533	31,301	131,834	77,193	121,947	160,313	128,789	35,272	164,061	118,199
3,869	24,628	22,188	95,247	117,257	37,285	155,642	90,690	144,319	193,201	152,237	44,124	196,361	141,159

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

III.—GENERAL SUMMARY of the NUMBER of CIVIL SUITS depending at the SUDDER DEWANNY ADAWLUT and the PROVINCIAL and

	Depending 1st January 1813.	*Instituted during the Year.*
LOWER PROVINCES.		
Calcutta Division:		
Provincial Court	917	224
Zillah and City Courts	47,175	62,787
	48,092	63,011
Dacca Division:		
Provincial Court	999	279
Zillah and City Courts	17,292	24,270
	18,291	24,549
Moorshedabad Division:		
Provincial Court	282	87
Zillah and City Courts	45,337	59,419
	45,619	59,506
Patna Division:		
Provincial Court	900	375
Zillah and City Courts	12,143	13,837
	13,043	14,212
TOTAL OF THE LOWER PROVINCES: PROVINCIAL COURTS	3,098	965
TOTAL OF THE LOWER PROVINCES: ZILLAH AND CITY COURTS	121,947	160,313
	125,045	161,278
WESTERN PROVINCES.		
Bareilly Division:		
Provincial Court	122	64
Zillah and City Courts	5,732	8,906
	5,854	8,970
Benares Division:		
Provincial Court	426	144
Zillah and City Courts	16,640	23,982
	17,066	24,126
TOTAL OF THE WESTERN PROVINCES: PROVINCIAL COURTS	548	208
TOTAL OF THE WESTERN PROVINCES: ZILLAH AND CITY COURTS	22,372	32,888
	22,920	33,096
FOR ALL THE PROVINCES: SUDDER DEWANNY ADAWLUT	309	81
FOR ALL THE PROVINCES: PROVINCIAL COURTS	3,646	1,173
FOR ALL THE PROVINCES: ZILLAH AND CITY COURTS	144,319	198,201
	148,274	194,455

Beginning and End of 1813, and instituted, decided and adjusted during that Year, in the ZILLAH COURTS, under the Presidency of *Bengal.*

Decreed or Dismissed.	Adjusted.	TOTAL disposed of.	Depending 1st January 1814.
170	14	184	957
48,790	14,000	62,790	47,172
48,960	14,014	62,974	48,129
233	22	255	1,023
17,380	5,598	22,978	18,584
17,613	5,620	23,233	19,607
56	5	61	308
51,443	13,925	65,368	39,388
51,499	13,930	65,429	39,696
342	33	375	900
11,176	1,749	12,925	13,055
11,518	1,782	13,300	13,955
801	74	875	3,188
128,789	35,272	164,061	118,199
129,590	35,346	164,936	121,387
85	6	91	95
6,192	2,399	8,591	6,047
6,277	2,405	8,682	6,142
147	15	162	408
17,256	6,453	23,709	16,913
17,403	6,468	23,871	17,321
232	21	253	503
23,448	8,852	32,300	22,960
23,680	8,873	32,553	23,463
72	- - -	72	318
1,033	95	1,128	3,691
152,237	44,124	196,361	141,159
153,342	44,219	197,561	145,168

Note.—The number of Suits instituted is not given in the Returns, and has therefore been supplied conjecturally, by a comparison between the number depending at the beginning of the year, and the numbers decided or adjusted and depending at the close of the year.

The proportions in which the business of the zillah courts was distributed between the judges, assistant judges, registrars and native commissioners, will appear from the detailed statements, Nos. 1 & 2.

The Returns do not distinguish between Appeals and original Suits.

IV.—ABSTRACT of the Total Number of regular CIVIL SUITS and APPEALS depending, and decided or adjusted, in each

1.	2. Depending 1st Jan. 1828.	3. Admitted or re-admitted during the Year.	4. Transferred from one Officer to another.	5. Amount of Columns 2 & 3, deducting Col. 4.	6. Transferred to other Jurisdictions.	7. Adjusted or withdrawn.	8. Dismissed on Default.	9. Decided on Trial.	10. Depending 1st Jan. 1829.	11. Extent of the Districts, in Square Miles.	12. POPULATION in 1822.
CALCUTTA DIVISION:											
Burdwan	7,847	11,295	2,649	16,493	111	1,750	1,445	5,745	7,442	2,000	1,187,580
Cuttack	1,412	2,650	856	3,206	352	483	349	896	1,126	9,040	1,984,620
Hooghly	3,876	10,030	3,285	10,621	306	1,976	1,031	3,535	3,773	2,260	1,239,150
Jessore	5,184	9,779	2,649	12,314	297	1,903	1,045	2,783	6,286	5,180	1,183,590
Jungle Mehals	7,438	7,592	2,444	12,586	1,095	966	391	2,921	7,214	6,990	1,304,740
Midnapore	4,571	4,879	763	8,687	5	1,515	549	2,077	4,541	8,260	1,914,060
Nuddeah	3,914	8,227	1,591	10,550	15	2,772	525	3,509	3,729	3,105	1,187,160
Suburbs of Calcutta	1,938	2,906	823	4,021	135	415	233	1,482	1,756	1,105	360,360
24 Pergunnahs	4,358	7,392	1,303	10,447	24	2,679	413	2,873	4,458	3,610	599,595
Cuttack Commissioner	33	20	—	53	—	2	6	18	27	—	—
	40,571	64,770	16,363	88,978	2,340	14,461	5,987	25,839	40,352		
Provincial Court	1,113	318	—	1,431	39	50	24	219	1,099		
TOTAL	41,684	65,088	—	90,409	2,379	14,511	6,011	26,058	41,451		
DACCA DIVISION:											
Buckergunge	927	1,316	368	1,875	7	190	227	600	851	2,780	686,640
Chittagong	8,331	15,145	3,599	19,877	2,823	1,796	908	6,293	8,057	2,980	700,800
Dacca City	1,477	2,352	618	3,211	80	787	13	700	1,631	1,870	512,385
Dacca Jelalpore	2,355	3,597	1,315	4,637	21	724	284	1,169	2,439	2,585	588,375
Mymensing	6,612	10,403	1,911	15,104	936	2,597	1,074	3,827	6,670	6,998	1,454,670
Sylhet	7,477	8,740	1,383	14,834	—	1,829	860	5,278	6,867	3,532	1,083,720
Tipperah	2,905	6,187	1,485	7,607	297	2,030	9	1,771	3,500	6,830	1,372,360
	30,084	47,740	10,679	67,145	4,164	9,953	3,375	19,638	30,015		
Provincial Court	221	159	—	380	—	14	—	80	286		
TOTAL	30,305	47,899	10,679	67,525	4,164	9,967	3,375	19,718	30,301		
MOORSHEDABAD DIVISION:											
Beerbhoom	2,986	4,840	1,143	6,683	4	1,084	251	2,103	3,241	3,870	1,267,065
Bhaugulpore	1,628	3,285	863	4,050	11	195	130	2,458	1,256	7,270	797,790
Dinagepore	4,777	10,654	2,935	13,396	604	2,249	518	4,518	5,507	5,920	2,341,420
Moorshedabad City	2,788	5,001	1,037	6,752	153	884	357	2,617	2,741	1,870	762,690
Purneah	4,056	10,097	1,840	12,313	1	3,246	89	4,823	4,154	7,460	1,362,165
Rajeshahye	2,775	5,419	1,046	7,148	306	1,601	230	2,266	2,745	3,950	4,087,155
Rungpore	3,956	10,621	2,348	12,229	528	2,423	173	6,367	2,738	7,856	1,340,350
Ditto, Commissioner	368	618	127	859	2	142	65	368	282		
	23,334	50,535	10,439	63,430	1,609	11,824	1,813	25,520	22,664		
Provincial Court	335	182	—	517	1	16	24	136	340		
TOTAL	23,669	50,717	10,439	63,947	1,610	11,840	1,837	25,656	23,004		
PATNA DIVISION:											
Behar	2,470	3,413	1,221	4,662	191	258	159	1,465	2,589	5,235	1,340,610
Patna City	1,364	2,674	1,193	2,845	490	202	53	731	1,369	667	255,705
Goruckpore	4,277	4,852	1,145	7,984	87	627	145	2,089	5,036	9,520	—
Ramghur	1,152	2,451	298	3,305	11	633	80	1,444	1,137	22,430	2,252,983
Sarun	1,201	2,620	746	3,075	—	197	11	1,429	1,438	5,760	1,464,075
Shahabad	1,795	3,138	926	4,007	351	315	81	853	2,407	4,650	908,850
Tirhoot	5,176	7,209	1,964	10,421	20	1,214	365	3,314	5,508	7,732	1,697,700
	17,435	26,357	7,493	36,299	1,150	3,446	894	11,325	19,484		
Provincial Court	586	229	—	815	—	27	30	154	604		
TOTAL	18,021	26,586	7,493	37,114	1,150	3,473	924	11,479	20,088		

of the ZILLAH or CITY COURTS, the PROVINCIAL COURTS, and the SUDDER DEWANNY ADAWLUT, in the Year 1828.

1.	2. Depending 1st Jan. 1828.	3. Admitted or re-admitted during the Year.	4. Transferred from one Officer to another.	5. Amount of Columns 2 & 3, *deducting Col. 4.*	6. Transferred to other Jurisdictions.	7. Adjusted or withdrawn.	8. Dismissed on Default.	9. Decided on Trial.	10. Depending 1st Jan. 1829.	11. Extent of the Districts, in Square Miles.	12. POPULATION in 1822.
BAREILLY DIVISION:											
Agrah	455	2,706	522	2,639	1	751	52	1,380	445	3,500	
Allyghur	2,026	5,379	606	6,799	81	1,144	44	2,991	2,539	3,400	
Bareilly	1,817	4,368	953	5,232	160	1,006	134	2,101	1,831	6,900 / 1,420	Shahjehanpore.
Cawnpore	1,658	4,189	1,960	3,887	12	393	115	1,459	1,908	2,650	
Etawah	723	1,667	288	2,102	47	615	200	770	470	3,450	
Furruckabad	1,506	2,536	845	3,197	24	511	101	1,280	1,281	1,850	
Moradabad	890	4,925	1,263	4,552	102	1,182	114	1,708	1,446	5,800	
Meerut	1,052	4,382	751	4,683	1	1,396	57	2,001	1,228	2,250	
Seharunpore	355	2,798	1,078	2,075	—	709	25	905	436	3,800	
	10,482	32,950	8,266	35,166	428	7,707	842	14,595	11,584		
Provincial Court	502	212	—	714	1	15	4	117	577		
TOTAL	10,984	33,162	8,266	35,880	429	7,722	846	14,712	12,161		
BENARES DIVISION:											
Allahabad	2,455	2,821	889	4,387	45	388	212	1,904	1,838	2,650	
Bundelcund, Southern Division	569	1,040	—	1,609	6	139	60	703	701	4,680	
Ditto, Northern ditto	647	1,316	216	1,747	46	216	111	736	638		
Benares City	1,986	4,422	1,167	5,241	138	352	152	3,014	1,585	350	
Ghazeepore	2,009	4,203	981	5,231	200	416	107	2,332	2,176	2,850	
Futtehpore	1,243	993	126	2,110	3	190	93	633	1,191	1,780	
Juanpore	2,308	3,307	962	4,653	17	181	17	1,877	2,561	1,820 / 2,240	Azimghur.
Mirzapore	1,079	1,984	535	2,528	110	187	245	1,102	884	3,650	
	12,296	20,086	4,876	27,506	565	2,069	997	12,301	11,574		
Provincial Court	1,064	309	—	1,373	—	21	43	236	1,073		
TOTAL	13,360	20,395	4,876	28,879	565	2,090	1,040	12,537	12,647		
SUMMARY:											
LOWER PROVINCES:											
Provincial Courts	2,288	888	—	3,143	40	109	84	607	2,329		
Zillah & City ditto, and Cuttack Commissioner	111,424	189,402	44,974	255,852	9,263	39,784	12,069	82,322	112,515		
TOTAL	113,712	190,290	44,974	258,995	9,303	39,893	12,153	82,929	114,844	153,802	37,503,265
WESTERN PROVINCES:											
Provincial Courts	1,566	521	—	2,087	1	36	47	353	1,650		
Zillah & City ditto	22,778	53,036	13,142	62,672	993	9,776	1,830	26,896	23,158		
TOTAL	24,344	53,557	13,142	64,759	994	9,812	1,877	27,249	24,808	66,510	32,206,806
TOTAL:											
Provincial Courts	3,852	1,309	—	5,230	41	145	131	960	3,979		
Zillah and City ditto	134,202	242,438	58,116	318,524	10,256	49,560	13,899	109,218	135,673		
Sudder Dewanny Adawlut	469	171	—	640	—	4	4	140	492		
TOTAL	138,523	243,918	58,116	324,394	10,297	49,709	14,034	110,318	140,144		

[The Population Returns do not state the Population of the different Zillahs in the Western Provinces.]

V.—REGULAR CIVIL SUITS depending at the Beginning and End of 1828, and admitted or re-admitted, and disposed of, during that Year.

	BEFORE THE JUDGES.										BEFORE THE REGISTRARS.								
	Depending 1st January 1828.	Instituted or re-admitted during the Year.	Decided on the Merits.	Dismissed on Default.	Adjusted by Razeenamah.	Transferred			Total disposed of.	Remaining 1st January 1829.	Depending 1st January 1828.	Admitted or re-admitted during the Year.	Decided on the Merits.	Dismissed on Default.	Adjusted or withdrawn.	Transferred		Total disposed of.	Remaining 1st January 1829.
						To Registers.	To Sudder Ameens.	To other Jurisdictions.								To Sudder Ameens.	To other Jurisdictions.		
CALCUTTA DIVISION:																			
Burdwan	1,149	3,216	340	108	28	260	2,389	–	3,125	1,240	1,484	266	168	162	25	–	11	366	1,384
Cuttack	207	1,057	117	20	30	213	643	–	1,023	241	104	213	65	29	29	–	83	206	241
Hooghly	160	3,529	226	41	26	423	2,862	3	3,581	108	407	423	278	98	21	–	14	411	419
Jessore	703	3,061	72	1	8	479	2,170	33	2,763	1,001	–	479	59	21	22	–	5	107	1,373
Jungle Mehals	1,623	2,934	158	77	16	242	2,201	247	2,941	1,616	576	242	–	–	–	–	583	583	1,235
Midnapore	537	981	45	10	11	43	720	–	829	689	113	45	5	3	3	–	1	12	734
Nuddeah	490	1,703	156	55	40	406	1,185	2	1,844	349	128	406	148	65	69	–	1	283	466
Suburbs of Calcutta	323	1,102	162	11	25	92	731	101	1,122	303	179	164	62	34	14	–	23	133	334
24 Pergunnahs	711	1,458	112	58	10	112	1,191	5	1,488	681	413	112	43	40	14	–	4	101	692
	5,903	19,041	1,388	381	194	2,270	14,092	391	18,716	6,228	3,404	2,350	828	452	198	–	725	2,202	6,928
Cuttack Commissioner	33	20	18	6	2	–	–	–	26	27									
DACCA DIVISION:																			
Backergunge	341	478	128	28	–	10	358	–	524	295	2	10	2	–	1	–	–	3	305
Chittagong	2,610	5,021	319	13	45	602	2,997	1,514	5,490	2,141	423	603	85	4	20	–	300	409	2,437
Dacca City	345	839	182	–	55	106	493	–	836	348	77	107	–	–	–	–	76	76	379
Dacca Jelalpore	899	1,184	101	36	19	147	1,268	–	1,471	612	179	47	–	–	–	–	18	18	641
Mymensing	912	2,429	91	135	42	884	1,027	–	2,179	1,162	789	884	91	51	11	–	553	706	1,340
Sylhet	1,365	1,394	212	15	11	324	978	–	1,540	1,219	–	324	70	51	5	16	–	142	1,397
Tipperah	330	1,737	107	1	117	389	1,096	–	1,710	357	39 14*	384 5*	67 –	– –	26 –	–	227 5*	320 5*	357 14*
	6,802	13,082	1,140	228	289	2,362	8,217	1,514	13,750	6,134	1,523	2,364	315	106	63	16	1,179	1,679	6,819
MOORSHEDABAD DIVISION:																			
Beerbhoom	449	1,316	79	34	14	149	983	2	1,261	504	127	150	49	16	33	–	1	99	605
Bhaugulpore	278	957	171	16	5	162	701	–	1,055	180	222	162	215	29	11	–	–	255	435
Dinagepore	295	2,366	110	15	19	104	1,931	197	2,376	285	111	104	15	–	9	–	11	35	320
Moorshedabad City	520	1,245	161	19	37	39	998	1	1,255	510	112	39	–	–	–	–	151	151	471
Purneah	658	2,108	250	25	27	–	1,840	1	2,143	623	–	–	–	–	–	–	–	–	623
Rajeshahye	416	1,110	–	1	–	256	790	–	1,047	479	100	256	107	16	29	–	142	294	664
Rungpore	322	2,645	486	25	39	142	2,206	–	2,898	69	217	142	77	4	13	–	265	359	79
Ditto - *Commissioner*	16	156	10	2	4	10	117	2	145	27	17	10	9	–	2	–	–	11	43
	2,954	11,903	1,267	137	145	862	9,566	203	12,180	2,677	896	863	472	65	97	–	570	1,204	3,350
PATNA DIVISION:																			
Benar	1,514	1,139	117	20	21	13	1,208	–	1,379	1,274	69	13	33	8	5	–	–	46	1,320
Patna City	710	1,252	153	26	68	509	684	111	1,551	411	205	509	64	–	14	–	278	356	566
Goruckpore	1,765	1,606	216	16	18	4	1,141	–	1,395	1,976	344	4	5	–	–	–	11	16	1,992
Ramghur	145	432	102	–	3	91	207	–	403	174	93	91	60	6	10	–	6	82	266
Sarun	378	913	69	3	20	140	606	–	838	453	147	140	115	–	40	–	–	155	608
Shahabad	430	1,201	91	18	21	107	819	14	1,070	561	555	107	–	–	–	–	316	316	1,316
Tirhoot	922	2,315	166	4	10	320	1,644	5	2,149	1,088	1,275	320	161	39	45	–	6	251	1,337
	5,864	8,158	914	87	161	1,184	6,309	130	8,785	5,937	2,688	1,184	438	53	114	–	617	1,422	7,360

* The Numbers marked thus (*) are cases depending before the *Collector* of Tipperah.

Before the Judges and other Officers of the several ZILLAH and CITY COURTS in the LOWER PROVINCES, under the Presidency of *Bengal*.

BEFORE THE SUDDER AMEENS.									BEFORE THE MOONSIFFS.									
Depending 1st January 1828.	Admitted or re-admitted during the Year.	Decided on the Merits.	Dismissed on Default.	Adjusted or withdrawn.	Transferred		Total disposed of.	Remaining 1st January 1829.	Depending 1st January 1828.	Admitted or re-admitted during the Year.	Decided on the Merits.	Dismissed on Default.	Adjusted or withdrawn.	Transferred			Total disposed of.	Remaining 1st January 1829.
					To Registers.	To other Jurisdictions.								To Registers.	To Sudder Ameens.	To other Jurisdictions.		
2548	2,472	1,629	765	209	–	23	2,626	2,394	2,666	5,341	3,608	410	1,488	–	–	77	5,583	2,424
385	643	235	87	79	–	265	666	262	816	737	479	213	345	–	–	4	1,041	512
1778	2,862	1,253	567	518	–	256	2,594	2,046	1,531	3,216	1,778	325	1,411	–	–	33	3,547	1,200
1332	2,170	864	575	295	–	220	1,954	2,448	2,249	4,069	1,788	448	1,578	–	–	39	3,853	2,465
1398	2,201	1,580	210	151	–	251	2,192	3,337	1,911	2,215	1,183	104	799	–	–	14	2,100	2,026
706	720	346	273	112	–	2	733	693	3,215	3,133	1,681	263	1,389	–	–	2	3,335	3,013
986	1,185	574	173	410	–	12	1,169	1,002	2,310	4,933	2,631	232	2,253	–	–	–	5,116	2,127
779	768	602	156	37	–	9	804	743	657	872	656	32	339	–	–	2	1,029	500
862	1,191	759	200	59	–	13	1,031	1,022	2,372	4,631	1,959	115	2,596	–	–	2	4,672	2,331
13,394	14,212	7,842	3,006	1,870	–	1,051	13,769	13,947	17,727	29,147	15,763	2,142	12,198	–	–	173	30,276	16,598
234	358	217	109	17	–	2	345	247	350	470	253	90	172	–	–	5	520	300
3,019	2,937	2,034	446	427	–	954	3,861	2,155	2,279	6,524	3,855	445	1,304	–	–	55	5,659	3,141
386	511	278	4	232	1	4	519	378	669	895	240	9	500	–	18	–	767	797
329	1,268	695	201	130	–	3	1,029	768	748	1,098	373	47	575	–	–	–	995	851
1,378	1,027	647	369	78	–	347	1,441	864	3,633	6,063	2,998	519	2,466	–	–	36	6,019	3,677
650	973	688	141	26	51	–	906	1,026	5,153	6,049	4,308	653	1,787	14	–	–	6,762	4,440
686	1,096	584	1	459	–	65	1,109	673	1,836	2,965	1,013	7	1,428	–	–	–	2,448	2,353
7,091	8,230	5,143	1,271	1,369	52	1,375	9,210	6,111	14,668	24,064	13,040	1,770	8,232	14	18	96	23,170	15,562
840	993	580	129	277	–	1	987	846	1,570	2,381	1,395	72	760	1	10	–	2,238	1,713
542	701	765	79	37	–	10	891	352	586	1,465	1,307	6	142	–	–	1	1,456	595
884	1,931	771	146	163	–	209	1,289	1,426	3,487	6,253	3,622	257	2,058	–	–	187	6,124	3,616
991	1,142	543	277	191	–	1	1,012	1,122	1,165	2,574	1,913	61	656	–	–	–	2,630	1,109
858	1,764	1,371	3	553	–	–	1,927	695	2,540	6,225	3,202	61	2,666	–	–	–	5,929	2,836
433	799	342	138	90	–	156	726	497	1,826	3,263	1,817	75	1,482	–	–	8	3,382	1,707
678	2,206	1,775	73	250	–	263	2,361	523	2,739	5,628	4,029	71	2,121	–	–	–	6,221	2,146
73	72	77	15	14	–	–	106	39	99	66	84	10	20	–	–	–	114	51†
									173	314	188	38	102	–	–	–	328	159‡
5,899	9,600	6,224	860	1,575	–	640	9,299	5,500	14,185	28,169	17,557	651	10,007	1	10	196	28,422	13,882
311	1,208	520	75	72	–	191	858	661	576	1,053	795	56	160	–	–	–	1,011	618
372	684	421	23	106	–	101	651	405	77	129	93	4	14	–	–	–	111	195
1,093	1,141	614	37	45	–	76	772	1,460	1,077	2,101	1,254	92	664	–	–	–	1,910	1,268
189	207	152	27	55	–	5	239	157	725	1,721	1,130	47	565	–	–	–	1,742	704
236	606	497	–	3	–	500	362	106	420	961	748	8	134	–	–	–	890	491
809	819	201	52	103	–	10	366	852	411	1,011	561	11	191	–	–	11	774	648
1,857	1,644	1,092	232	233	–	6	1,563	1,438	1,622	2,930	1,895	90	926	–	–	3	2,914	1,638
4,975	6,309	3,497	446	617	–	389	4,949	5,335	4,908	2,006	6,476	308	2,554	–	–	14	9,352	5,562

† Sudder Moonsiffs. ‡ Moonsiffs.

VI.—REGULAR CIVIL SUITS depending and decided, or adjusted, before the Judges and other Officers of the

	BEFORE THE JUDGES.										BEFORE THE REGISTRARS.								
	Depending 1st January 1828.	Admitted or re-admitted during the Year.	Decided on the Merits.	Dismissed on Default.	Adjusted or withdrawn.	Transferred			Total disposed of.	Remaining 1st January 1829.	Depending 1st January 1828.	Admitted or re-admitted during the Year.	Decided on the Merits.	Dismissed for Default.	Adjusted or withdrawn.	Transferred		Total disposed of.	Remaining 1st January 1829.
						To Registers.	To Sudder Ameens.	To other Jurisdictions.								To Sudder Ameens.	To other Jurisdictions.		
Bareilly Division:																			
Agrah	90	642	104	9	13	66	466	–	658	74	25	66	38	–	11	–	–	49	42
Allyghur	225	871	168	2	34	158	446	–	808	289	151	160	–	–	–	–	80	80	231
Bareilly	535	1,127	143	10	23	134	819	1	1,130	532	279	139	91	2	29	–	82	204	214
Cawnpore	897	2,018	92	5	9	–	1,960	6	2,072	843	–	–	–	–	–	–	–	–	–
Etawah	61	400	62	8	19	–	288	7	384	77	–	–	–	–	–	–	–	–	–
Furruckabad	133	853	53	4	78	85	567	1	788	198	208	88	6	–	1	182	19	208	88
Moradabad	109	1,523	100	1	17	130	1,133	–	1,381	255	88	130	83	1	17	–	91	192	26
Meerut	187	843	97	2	31	176	450	–	756	274	187	176	109	3	61	125	–	298	65
Seharunpore	40	1,159	66	2	11	115	963	–	1,157	42	11	115	58	1	36	–	–	95	31
	2,277	9,441	885	43	235	864	7,092	15	9,134	2,584	949	874	385	7	155	307	272	1,126	697
Benares Division:																			
Allahabad	752	879	149	17	24	429	460	10	1,089	542	116	429	185	18	25	–	2	230	315
Bundelcund, Southern Division	233	101	2	–	–	–	–	–	2	332	–	–	–	–	–	–	–	–	–
Bundelcund, Northern Division	106	340	21	1	7	–	216	23	268	178	–	–	–	–	–	–	–	–	–
Benares City	951	1,378	539	5	43	246	921	44	1,798	531	164	246	172	21	22	–	21	236	174
Ghazeepore	653	1,109	292	52	38	70	687	1	1,140	622	238	363	24	–	2	224	151	401	200
Futtehpore	487	202	17	1	–	–	126	3	147	542	–	–	–	–	–	–	–	–	–
Juanpore	381	945	90	–	7	331	447	–	875	451	343	335	62	2	3	180	13	260	418
Mirzapore	493	770	140	26	24	110	425	63	788	475	71	115	108	17	19	–	9	153	33
	4,056	5,724	1,250	102	143	1,186	3,282	144	6,107	3,673	932	1,488	551	58	71	404	196	1,280	1,140

VII.—STATEMENT of APPEALS, Regular and Special, depending before the Sudder Dewanny Adawlut,

ANNUAL ABSTRACT REPORT of Appeals depending before the Court of Sudder Dewanny Adawlut, on the 1st January 1828 and 1829, and of the Number admitted and disposed of during the Year 1828.

	Depending 1st January 1828.	Admitted in last Twelve Months.	TOTAL.	Decreed on Trial.	Dismissed on Default.	Adjusted or withdrawn.	TOTAL.	Depending on the 1st January 1829.	INCREASE.	DECREASE.
Regular Appeals	249	121	370	58	3	2	63	307	58	—
Special Appeals	220	50	270	82	1	2	85	185	–	35
Total	469	171	640	140	4	4	148	492	58	35

ZILLAH and CITY COURTS in the WESTERN PROVINCES, under the Presidency of *Bengal*, in the Year 1828.

BEFORE THE SUDDER AMEENS.									BEFORE THE MOONSIFFS.								
Depending 1st January 1828.	Admitted or re-admitted during the Year.	Decided on the Merits.	Dismissed for Default.	Adjusted or withdrawn.	Transferred		Total disposed of.	Remaining 1st January 1829.	Depending 1st January 1828.	Admitted or re-admitted during the Year.	Decided on the Merits.	Dismissed for Default.	Adjusted or withdrawn.	Transferred		Total disposed of.	Remaining 1st January 1829.
					To Registers.	To other Jurisdictions.								To Sudder Ameens.	To other Jurisdictions.		
140	466	277	40	170	–	–	487	119	200	1,532	961	3	557	–	1	1,522	210
169	446	267	35	168	2	1	473	142	1,481	3,901	2,556	7	942	–	–	3,505	1,877
508	941	550	43	264	–	23	880	569	495	2,161	1,317	79	690	–	54	2,140	516
648	1,960	1,171	97	341	–	–	1,609	999	113	211	196	13	43	–	6	258	66
140	288	156	53	97	–	10	316	112	522	979	552	139	499	–	30	1,220	281
819	757	592	87	209	3	3	894	682	346	838	629	10	223	8	1	871	313
154	1,133	544	38	305	–	11	898	389	539	2,135	981	74	843	–	–	1,898	776
78	575	185	12	245	–	1	443	210	600	2,788	1,610	40	1,059	–	–	2,709	679
238	963	381	14	540	–	–	935	266	66	561	400	8	122	–	–	530	97
2,894	7,529	4,123	419	2,339	5	49	6,935	3,488	4,362	15,106	9,202	373	4,978	8	92	14,653	4,815
369	462	478	104	35	–	14	631	200	1,218	1,051	1,092	73	304	–	19	1,488	781
44	76	58	13	8	–	–	79	41	292	863	643	47	131	–	6	827	328
150	216	174	63	33	–	–	270	96	391	760	541	47	176	–	23	787	364
394	921	683	40	62	–	34	819	496	477	1,877	1,620	86	225	–	39	1,970	384
360	911	705	5	33	–	39	782	489	758	1,820	1,311	50	343	–	9	1,713	865
209	126	131	71	46	–	–	248	87	547	665	485	21	144	–	–	650	562
377	627	646	6	32	4	4	692	312	1,207	1,400	1,079	9	139	–	–	1,227	1,380
271	427	450	66	27	–	14	557	141	244	672	404	136	117	–	24	681	235
2,174	3,766	2,325	368	276	4	105	4,078	1,862	5,134	9,108	7,175	469	1,579	–	120	9,342	4,899

at the Beginning and End of 1828, and disposed of during that Year, and of the AMOUNT of PROPERTY in question.

SPECIFICATION of APPEALS, REGULAR and SPECIAL, depending before the COURT OF SUDDER DEWANNY ADAWLUT, on the 1st January 1829.

Not exceeding - - - - -	Rupees	500	18	Amount value - - S[a] R[s]	3,694
Ditto - - - - - -	–	1,600	92	Ditto - - - -	53,247
Ditto - - - - - -	–	5,000	81	Ditto - - - -	2,25,127
Ditto - - - - - -	–	10,000	130	Ditto - - - -	7,25,396
Exceeding - - - - -	–	10,000	171	Ditto - - - -	1,25,79,544
				TOTAL Sicca Rupees - - -	1,35,87,008

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

VIII.—STATEMENT, showing the TOTAL VALUE or AMOUNT, in Sicca Rupees, CIVIL COURTS, on the

		ORIGINAL SUITS.	APPEALS.	TOTAL.
CALCUTTA DIVISION	Sudder Dewanny Adawlut	-	-	1,35,87,008
	Calcutta Provincial Court	72,37,156	9,79,904	82,17,060
	Cuttack Commissioners	93,756	31,665	1,25,421
	Burdwan	3,67,811	1,31,452	4,99,263
	Cuttack	2,05,095	11,035	2,16,130
	Hooghly	3,61,211	30,720	3,91,931
	Jessore	5,43,374	35,553	5,78,927
	Jungle Mehals	4,91,750	85,167	5,76,917
	Midnapore	3,98,602	37,489	4,36,091
	Nuddeah	3,60,399	22,518	3,82,917
	Suburbs of Calcutta	3,02,547	10,098	3,12,645
	Twenty-four Pergunnahs	2,37,303	22,402	2,59,705
	TOTAL	1,05,99,004	13,98,003	1,19,97,007
DACCA DIVISION	Dacca Provincial Court	8,85,828	2,32,534	11,18,362
	Backergunge	1,92,127	11,966	2,04,093
	Chittagong	3,15,720	1,02,850	4,18,570
	City Dacca	1,88,663	15,025	2,03,688
	Dacca Jelalpore	1,46,951	17,984	1,64,935
	Mymensingh	4,13,318	70,110	4,83,428
	Sylhet	1,92,571	37,949	2,30,520
	Tipperah	1,54,274	19,276	1,73,550
	TOTAL	24,89,452	5,07,694	29,97,146
MOORSHEDABAD DIVISION.	Moorshedabad Provincial Court	95,02,945	3,99,000	99,01,945
	Beerbhoom	2,15,030	35,246	2,50,276
	Bhaugulpore	2,22,711	13,027	2,35,738
	Dinagepore	2,36,501	46,854	2,83,355
	City Moorshedabad	5,23,945	24,733	5,48,678
	Purneah	2,79,298	16,220	2,95,518
	Rajeshahye	3,94,881	11,299	4,06,180
	Rungpore	1,33,960	7,421	1,41,381
	Rungpore Commissioner	69,671	1,723	71,394
	TOTAL	1,15,78,942	5,55,523	1,21,34,465

GENERAL ABSTRACT.

	TOTAL AMOUNT OF SUDDER DEWANNY ADAWLUT, PROVINCIAL, ZILLAH and CITY COURTS.		
	ORIGINAL SUITS.	APPEALS.	TOTAL.
Sudder Dewanny Adawlut	-	-	1,35,87,008
Calcutta Division	1,05,99,004	13,98,003	1,19,97,007
Dacca ditto	24,89,452	5,07,694	29,97,146
Moorshedabad ditto	1,15,78,942	5,55,523	1,21,34,465
Patna ditto	92,53,461	10,20,270	1,02,73,731
Benares ditto	4,45,27,486	13,16,457	4,58,43,943
Barielly ditto	26,13,528	9,48,972	35,62,500
GRAND TOTAL	8,10,61,873	57,46,919	10,03,95,800
Deduct Amount of Sudder Dewanny Adawlut, to adjust Amount of Grand Total			1,35,87,008
			8,68,08,792
N. B.—Total Amount of last General Abstract, furnished up to 1st January 1828, being			9,98,71,097
Ditto 1st January 1829, being			10,03,95,800
			5,24,703

of REGULAR SUITS, whether ORIGINAL or in APPEAL, depending in the several 1st January 1829.

		ORIGINAL SUITS.	APPEALS.	TOTAL.
PATNA DIVISION	Patna Provincial Court	49,15,783	4,73,329	53,89,112
	Behar	8,70,956	75,643	9,46,599
	City Patna	4,97,710	34,671	5,32,381
	Goruckpore	6,09,979	2,10,068	8,20,047
	Ramghur	1,55,777	7,621	1,63,398
	Sarun	5,16,463	27,350	5,43,813
	Shahabad	5,49,541	21,500	5,71,041
	Tirhoot	11,37,252	1,70,088	13,07,340
	TOTAL	92,53,461	10,20,270	1,02,73,731
BENARES DIVISION	Benares Provincial Court	4,18,03,050	10,94,047	4,28,97,097
	Allahabad	5,14,087	52,518	5,66,605
	Bundlecund, Southern Division	1,39,284	7,203	1,46,487
	Bundlecund, Northern Division	1,16,553	15,897	1,32,450
	City Benares	5,01,307	27,828	5,29,135
	Ghazeepore	4,31,601	36,624	4,68,225
	Futtehpore	2,32,529	21,511	2,54,040
	Jounpore	4,35,259	31,424	4,66,683
	Mirzapore	3,53,816	29,405	3,83,221
	TOTAL	4,45,27,486	13,16,457	4,58,43,943
BARIELLY DIVISION	Barielly Provincial Court	7,89,429	7,46,940	15,36,369
	Agrah	76,774	4,976	81,750
	Allighur	2,41,782	21,419	2,63,201
	Barelly	3,15,472	28,246	3,43,718
	Cawnpore	5,15,590	97,315	6,12,905
	Etawah	91,050	3,422	94,472
	Furruckabad	1,91,475	9,815	2,01,290
	Moradabad	1,79,264	14,490	1,93,754
	Meerut	1,77,440	21,196	1,98,636
	Seharunpore	35,252	1,153	36,405
	TOTAL	26,13,528	9,48,972	35,62,500

\- - - - - - -, GENERAL ABSTRACT.

ZILLAH and CITY COURTS, including SUDDER AMEENS and MOONSIFFS.			PROVINCIAL COURTS.		
ORIGINAL SUITS.	APPEALS.	TOTAL.	ORIGINAL SUITS.	APPEALS.	TOTAL.
—	—	—	—	—	—
33,61,848	4,18,099	37,79,947	72,37,156	9,79,904	82,17,060
16,03,624	2,75,160	18,78,784	8,85,828	2,32,534	11,18,362
20,75,997	1,56,523	22,32,520	95,02,945	3,99,000	99,01,945
43,37,678	5,46,941	48,84,619	49,15,783	4,73,329	53,89,112
27,24,436	2,22,410	29,46,846	4,18,03,050	10,94,047	4,28,97,097
18,24,099	2,02,032	20,26,131	7,89,429	7,46,940	15,36,369
1,59,27,682	18,21,165	1,77,48,847	6,51,34,191	39,25,754	6,90,59,945
- - - - -		1,74,23,456	- - - - -		6,85,47,872
- - - - -		1,77,48,847	- - - - -		6,90,59,945
- - - - -		3,25,391	- - - - -		5,12,073

IX.—GENERAL ABSTRACT STATEMENT of REGULAR SUITS, whether ORIGINAL or in APPEAL, depending on the 1st January 1828 and 1829 respectively, in the several Classes of COURTS in the *Western* and *Lower Provinces*.

	DEPENDING on the 1st January 1828.			DEPENDING on the 1st January 1829.			TOTAL Decrease and Increase in the Year 1828.	
	Western Provinces.	Lower Provinces.	TOTAL.	Western Provinces.	Lower Provinces.	TOTAL.	Decrease.	Increase.
Sudder Dewanny Adawlut -	–	–	469	–	–	492	–	23
Provincial Courts - -	1,566	2,288	3,854	1,650	2,356	4,006	–	152
Zillah and City Judges -	6,333	21,523	27,856	6,257	20,976	27,233	623	—
Ditto - Registers - -	1,881	8,511	10,392	1,837	8,965	10,802	–	410
Ditto - Sudder Ameens -	5,068	29,968	35,036	5,350	30,944	36,294	–	1,258
Moonsiffs - - -	9,496	51,389	60,885	9,714	51,603	61,317	–	432
TOTAL - -	24,344	113,679	138,492	24,808	114,844	140,144	623	2,275

X.—STATEMENT of REGULAR CAUSES, ORIGINAL SUITS and APPEALS depending, admitted and disposed of in the several PROVINCIAL COURTS of the *Western* and *Lower Provinces*, in each Year, since the Courts have consisted of Four Judges, viz. from 1815.

PROVINCIAL COURTS.	YEARS.	Depending at commencement of each Year.	Admitted in each Year.	Disposed of in each Year, as specified.	Decided on Trial.	Dismissed on Default.	Adjusted or withdrawn.
CALCUTTA PROVINCIAL COURT	1815	970	183	209	166	15	28
	1816	944	221	218	183	3	32
	1817	958	144	253	175	22	36
	1818	849	189	395	307	23	20
	1819	643	169	208	176	11	21
	1820	604	185	222	186	16	20
	1821	566	292	230	173	24	33
	1822	628	283	186	126	26	34
	1823	725	217	130	111	9	18
	1824	804	261	73	55	5	13
	1825	992	317	237	187	20	30
	1826	1,072	361	270	184	10	31
	1827	1,163	254	307	231	28	48
	1828	1,113	318	293	219	24	50
	1829	1,099	—	—	—	—	—
DACCA PROVINCIAL COURT	1815	1,051	217	257	214	13	30
	1816	1,011	193	177	144	13	20
	1817	1,027	287	260	228	8	24
	1818	1,054	221	592	462	70	52
	1819	683	141	553	436	19	98
	1820	271	148	307	265	10	32
	1821	112	163	152	132	1	19
	1822	123	182	170	147	–	23
	1823	135	141	135	117	2	16
	1824	141	136	110	95	1	14
	1825	167	129	136	115	2	19
	1826	160	160	107	93	–	14
	1827	213	155	147	120	1	26
	1828	221	159	94	80	–	14
	1829	286	—	—	—	—	—
MOORSHEDABAD PROVINCIAL COURT.	1815	340	84	127	71	35	21
	1816	297	89	131	95	24	12
	1817	254	114	256	213	31	12
	1818	112	199	170	131	22	12
	1819	141	175	146	118	17	11
	1820	170	182	147	115	20	12
	1821	205	125	145	112	17	16
	1822	185	137	136	106	20	10
	1823	186	125	136	109	20	7
	1824	175	103	125	101	12	12
	1825	153	174	86	67	11	8
	1826	241	169	71	49	16	6
	1827	339	186	190	153	29	8
	1828	335	182	176	136	24	16
	1829	340	—	—	—	—	—

X.—Statement of Regular Causes, Original Suits and Appeals depending, &c.—*continued.*

PROVINCIAL COURTS.	YEARS.	Depending at commencement of each Year.	Admitted in each Year.	Disposed of in each Year, as specified.	Decided on Trial.	Dismissed on Default.	Adjusted or withdrawn.
Patna Provincial Court	1815	783	170	220	189	7	22
	1816	718	250	229	207	–	21
	1817	739	165	267	233	11	23
	1818	637	222	306	269	22	15
	1819	553	215	240	214	6	20
	1820	528	205	174	140	13	21
	1821	559	178	186	143	7	26
	1822	551	202	334	284	29	20
	1823	419	206	171	147	4	20
	1824	454	280	221	190	18	13
	1825	513	342	196	150	5	32
	1826	659	249	223	166	33	24
	1827	683	251	348	261	60	27
	1828	586	229	211	154	30	27
	1829	604	—	—	—	—	—
Bareilly Provincial Court	1815	105	120	114	107	3	4
	1816	111	74	115	108	–	7
	1817	70	99	115	111	–	4
	1818	54	131	119	117	–	2
	1819	66	208	128	117	2	9
	1820	146	231	226	220	2	5
	1821	151	205	237	219	3	11
	1822	119	168	93	81	2	9
	1823	194	151	88	74	–	14
	1824	257	188	99	91	2	6
	1825	346	105	91	67	14	10
	1826	360	201	142	128	1	13
	1827	419	203	120	92	18	10
	1828	502	212	136	117	4	15
	1829	577	—	—	—	—	—
Benares Provincial Court	1815	570	235	181	156	10	15
	1816	624	253	344	203	–	41
	1817	533	328	254	220	20	14
	1818	607	325	315	295	12	8
	1819	617	333	220	192	10	18
	1820	730	312	212	182	6	24
	1821	830	341	199	174	8	17
	1822	972	267	166	127	22	17
	1823	1,094	272	364	301	35	28
	1824	1,002	501	297	239	33	25
	1825	1,206	262	478	350	28	24
	1826	990	320	241	186	28	27
	1827	1,069	286	291	238	27	26
	1828	1,064	309	300	236	43	21
	1829	1,073	—	—	—	—	—

NOTE:

TRANSFERRED to other Jurisdictions.

Calcutta Provincial Court	in	1817	20
	in	1818	45
	in	1826	45
	in	1827	2
	in	1828	39
Dacca	ditto in	1818	8
Moorshedabad	ditto in	1818	5
	ditto in	1828	1
Patna	ditto in	1815	2
	ditto in	1816	1
	ditto in	1822	1
Bareilly	ditto in	1820	1
	ditto in	1821	4
	ditto in	1822	1
	ditto in	1828	1
Benares	ditto in	1825	76

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

XI.—STATEMENT of the Total Number of REGULAR SUITS and APPEALS depending before the several COURTS, both in the *Lower* and *Western Provinces*, on the 1st of January 1815, compared with the Number depending on the 1st of January 1829.

	On the 1st of January 1815.	On the 1st of January 1829.	INCREASE.	DECREASE.
Sudder Dewanny Adawlut - -	415	492	77	—
Provincial Courts - - - -	3,830	4,006	176	—
Judges and Registers - - -	30,924	38,035	7,111	—
Sudder Ameens and Moonsiffs -	99,700	97,611	- -	2,089
TOTAL - - - -	134,869	140,144	7,364	2,089

XIII.—STATEMENT intended to show the PERIOD WHICH WOULD ELAPSE before 1st January 1829, if calculated according to the Average

	Disposed of during the Year 1824.	Disposed of during the Year 1825.	Disposed of during the Year 1826.	Disposed of during the Year 1827.
Sudder Dewanny Adawlut -	122	99	98	118
Provincial Courts - - -	932	1,155	1,053	1,415
Judges - - - - -	9,305	9,404	11,030	9,681
Registers - - - -	4,575	5,195	6,154	6,022
Sudder Ameens - - -	44,880	44,330	45,041	45,986
Moonsiffs - - - -	105,119	106,321	113,285	113,120
TOTAL - - -	164,933	166,504	176,661	176,342

XII.—STATEMENT, showing the PERIOD WHICH WOULD ELAPSE before the DECISION of REGULAR SUITS depending on the 1st of January 1829, if calculated according to the Number disposed of in the several Courts during the Year 1828.

	Depending on the 1st January 1829.	Disposed of during the Year 1828.	Average Period which would elapse, before the Decision of the Number of Suits depending in each Court, according to the foregoing Statement of the Number disposed of in the past Year.
Sudder Dewanny Adawlut - -	492	148	3 years and 4 months
Provincial Court - - - -	4,006	1,236	3 years and 3 months
Zillah Judges - - - -	27,233	8,989	3 years.
Registers - - - - -	10,802	4,427	2 years and 5 months.
Sudder Ameens - - - -	36,294	44,784	10 months.
Moonsiffs - - - - -	61,317	114,360	6 months and 15 days.
TOTAL - - -	140,144	173,944	

the DECISION of the REGULAR SUITS depending in the CIVIL COURTS on the Number of Decisions passed during the last Five Years.

Disposed of during the Year 1828.	TOTAL disposed of during the Years 1824 to 1828.	Number disposed of in each Year on the Average of the Five Years.	Depending on the 1st January 1829.	Average Period which would elapse before the Decision of Suits in each Court, according to the foregoing Statement of the Number disposed of in the past Five Years.
148	585	117	492	4 years and about 3 months.
1,236	5,791	1,158	4,006	3 years and about 6 months.
8,989	48,409	9,682	27,233	2 years and about 10 months.
4,427	26,373	5,275	10,802	2 years and about 1 month.
44,784	2,25,021	45,004	36,294	About 10 months.
114,360	552,205	110,441	61,317	About 7 months.
173,944	858,384	171,677	140,144	

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

XIV.—AN ABSTRACT STATEMENT of Summary Suits disposed of during

	Depending on the 1st January 1828.			
	Land Rent.	Dispossession.	Miscellaneous.	TOTAL.
Bareilly Division:				
Bareilly Provincial Court	- -	- -	- -	41
Agrah	118	1	16	135
Allygurh	6	7	- -	13
Bareilly	130	57	78	265
Cawnpore	508	1	28	537
Etawah	37	1	16	54
Furruckabad	57	- -	- -	57
Moorshedabad	97	1	3	101
Meerut	24	4	31	59
Seharunpore	6	3	14	23
Total	983	75	186	1,285
Benares Division:				
Benares Provincial Court	- -	- -	- -	602
Allahabad	394	- -	34	428
Bundlecund, Southern Division	55	6	25	86
Bundlecund, Northern Division	252	7	31	290
City Benares	162	- -	119	281
Ghazeepore	1,617	144	245	2,006
Futtehpore	263	5	41	308
Jounpore	1,059	139	650	1,848
Mirzapore	111	4	16	131
Total	3,913	305	1,161	5,980
Calcutta Division:				
Lower Provinces:				
Calcutta Provincial Court	- -	- -	- -	24
Cuttack Commissioner	- -	- -	- -	1
Cuttack	16	2	33	51
Burdwan	1,139	2	301	1,442
Hooghly	285	7	3	292
Jessore	1,087	- -	102	1,189
Jungle Mehals	900	58	288	1,246
Midnapore	1,209	13	1	1,223
Nuddeah	503	101	351	955
Suburbs of Calcutta	142	- -	1	145
24 Pergunnahs	709	77	19	805
Total	5,990	260	1,099	7,374
Dacca Division:				
Dacca Provincial Court	- -	- -	- -	23
Backergunge	34	- -	- -	34
Chittagong	341	14	220	575
City Dacca	46	- -	7	53
Dacca Jelalpore	515	3	55	570
Mymensingh	446	26	24	473
Sylhet	682	- -	15	723
Tipperah	237	- -	14	251
Total	2,301	43	335	2,702

the Year 1828, and DEPENDING on the 1st of January 1828 and 1829, respectively.

DISPOSED OF during the Year 1828.				DEPENDING on the 1st January 1829.			
Land Rent.	Dispossession.	Miscellaneous.	TOTAL.	Land Rent.	Dispossession.	Miscellaneous.	TOTAL.
- -	- -	- -	19	- -	- -	- -	51
14	- -	3	44	76	1	10	87
32	2	43	77	12	6	16	34
71	24	79	174	103	55	94	252
423	- -	21	444	233	3	75	311
120	1	45	166	40	1	36	77
- -	- -	- -	- -	57	- -	- -	57
26	2	- -	28	67	1	2	70
18	1	14	33	16	7	40	63
2	5	19	26	19	- -	4	23
733	35	224	1,011	623	74	277	1,025
- -	- -	- -	181	- -	- -	- -	605
678	- -	26	704	507	- -	35	542
- -	- -	1	1	99	6	43	148
1	- -	10	11	274	7	37	318
239	- -	161	400	323	- -	109	432
1,261	3	18	1,282	1,613	214	275	2,102
- -	- -	3	3	453	5	51	509
233	2	19	254	1,183	153	724	2,060
147	2	98	247	37	3	29	69
2,559	7	336	3,833	4,489	388	1,303	6,785
- -	- -	- -	39	- -	- -	- -	34
- -	- -	- -	4	- -	- -	- -	3
16	2	46	64	- -	- -	31	31
1,287	2	5,771	7,060	876	- -	191	1,067
1,234	9	8	1,251	159	- -	1	160
601	- -	58	659	3,528	- -	235	3,763
1,152	28	101	1,281	691	79	364	1,134
147	1	- -	148	1,937	13	1	1,951
209	33	141	473	391	96	366	853
169	- -	22	191	102	- -	- -	102
976	9	32	1,017	684	92	89	865
5,881	84	6,179	12,187	8,368	280	1,278	9,963
- -	- -	- -	23	- -	- -	- -	17
61	- -	18	79	44	- -	- -	44
316	14	356	686	685	10	158	853
41	- -	30	71	32	- -	1	33
713	- -	42	755	489	- -	62	551
479	1	4	484	405	2	22	429
176	21	- -	197	342	6	18	366
36	- -	334	370	200	- -	- -	200
1,822	36	784	2,665	2,197	18	261	2,493

(continued.)

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

XIV.—Abstract Statement of Summary Suits disposed of during the Year 1828,

	Depending on the 1st January 1828.			
	Land Rent.	Dispossession.	Miscellaneous.	TOTAL.
Moorshedabad Division:				
Moorshedabad Provincial Court	182	- -	- -	7
Beerbhoom	182	120	45	347
Bauglepore	174	6	10	190
Dinagepore	285	62	41	388
City Moorshedabad	320	52	- -	379
Purneah	849	2	- -	851
Rajeshahye	342	10	8	360
Rungpore	428	- -	43	471
Rungpore Commissioner	72	12	49	133
Total	2,652	271	196	3,126
Patna Division:				
Patna Provincial Court	- -	- -	- -	28
Behar	908	146	- -	1,054
City Patna	182	4	- -	186
Goruckpore	145	144	147	436
Ramghur	399	- -	143	542
Sarun	77	2	85	164
Shahabad	15	25	83	123
Tirhoot	116	48	- -	164
Total	1,842	369	458	2,697

GENERAL ABSTRACT.

	Depending on the 1st January 1828.			
	Land Rent.	Dispossession.	Miscellaneous.	TOTAL.
Divisions:				
Bareilly	983	75	186	1,285
Benares	3,913	305	1,161	5,980
Calcutta, including Cuttack Commissioner	5,990	260	1,099	7,374
Dacca	2,301	43	335	2,702
Moorshedabad	2,652	271	196	3,126
Patna	1,842	369	458	2,697
GRAND TOTAL	17,681	1,323	3,435	23,164

Bareilly Provincial Court	41
Benares Provincial Court	601
Calcutta, including Cuttack Commissioner	25
Dacca Provincial Court	23
Moorshedabad Provincial Court	7
Patna Provincial Court	28
Total	725

and depending on the 1st of January 1828 and 1829, respectively—*continued.*

Disposed of during the Year 1828.				Depending on the 1st January 1829.			
Land Rent.	Dis-possession.	Miscellaneous.	TOTAL.	Land Rent.	Dis-possession.	Miscellaneous.	TOTAL.
- -	- -	- -	19	- -	- -	- -	3
190	45	10	245	261	93	26	380
142	1	2	145	153	6	10	169
317	20	566	903	329	51	60	440
438	47	- -	485	138	55	- -	193
775	2	- -	777	1,026	- -	- -	1,026
165	- -	5	170	253	10	4	267
580	- -	44	624	32	- -	29	61
143	13	80	236	95	2	14	111
2,750	128	707	3,604	2,287	217	143	2,650
- -	- -	- -	29	- -	- -	- -	14
105	61	- -	166	1,213	88	- -	1,301
35	- -	875	910	230	4	- -	234
- -	91	97	188	204	159	158	521
377	- -	100	477	360	- -	129	489
46	2	101	149	108	8	139	255
- -	66	900	966	186	86	39	311
776	- -	9	785	296	49	- -	345
1,339	220	2,082	3,670	2,597	394	465	3,470

- - - - - - GENERAL ABSTRACT.

Disposed of during the Year 1828.				Depending on the 1st January 1829.			
Land Rent.	Dis-possession.	Miscellaneous.	TOTAL.	Land Rent.	Dis-possession.	Miscellaneous.	TOTAL.
733	35	224	1,011	623	74	277	1,025
2,559	7	336	3,083	4,489	388	1,303	6,785
5,881	84	6,179	12,187	8,368	280	1,278	9,963
1,822	36	784	2,665	2,197	18	261	2,493
2,750	128	707	3,604	2,287	217	143	2,650
1,339	220	2,082	3,670	2,597	394	465	3,470
15,084	510	10,312	26,220	20,561	1,371	3,727	26,386
- - - - - -			19	- - - - - -			51
- - - - - -			181	- - - - - -			605
- - - - - -			43	- - - - - -			37
- - - - - -			23	- - - - - -			17
- - - - - -			19	- - - - - -			3
- - - - - -			29	- - - - - -			14
- - - - - -			314	- - - - - -			727

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

XV.—STATEMENT of SUMMARY SUITS in the several CIVIL COURTS in the *Western* and *Lower Provinces*, on the 1st January 1829, and referred to the Collectors for Adjudication, and the Number DECIDED and DEPENDING.

	TOTAL under Reference during the Year.	Adjusted and Decided by the Collector during the last 12 Months.	Remaining under Reference the Collectors on the 1st January 1829
Agrah	60	109	65
Alligurh	10	49	10
Bareilly	3	4	8
Cawnpore	288	206	76
Etawah	33	69	—
Furruckabad	57	—	57
Mooradabad	1	10	3
Merut	15	16	7
Seharunpore	5	6	15
Allahabad	5	72	117
Bundlecund, Southern Division	26	65	27
Bundlecund, Northern ditto	132	94	107
City Benares	—	23	7
Ghazeepore	26	43	78
Juanpore	2	13	12
Burdwan	690	2,070	274
Hooghly	66	1,202	87
Jessore	976	1,431	364
Jungle Mehals	10	171	98
Midnapore	12	276	36
Nuddeah	22	456	65
Suburbs of Calcutta	106	284	68
Twenty-four Pergunnahs	68	163	95
Backergunge	23	75	28
Chittagong	220	701	339
City Dacca	3	93	15
Dacca Jelalpore	7	11	—
Mymensingh	368	360	203
Sylhet	—	230	17
Tipperah	202	521	124
Beerbhoom	30	269	103
Bhaugulpore	1	3	6
Dinagepore	—	9	4
City Moorshedabad	—	501	143
Rajeshahye	13	55	—
Behar	616	607	949
City Patna	144	245	11
Gorruckpore	145	212	203
Ramghur	—	23	35
Sarun	59	88	49
Shahabad	15	374	186
Tirhoot	45	238	—
TOTAL	4,504	11,446	4,091

Mirzapore, Futtehpore, Cuttack, Purneah and Rungpore — No Cases referred to the Collectors.

XVI.—TABLE, showing the NUMBER of SUITS INSTITUTED and DECIDED (within the Year) in the SUDDER ADAWLUT and PROVINCIAL COURTS, and in the COURTS of the ZILLAH JUDGES, REGISTERS, SUDDER AMEENS and MOONSIFFS, and the NUMBER DEPENDING at the End of the Year, with the average DELAY of Judicature in all the Courts, during the Years 1805, 1810, 1815, 1820 and 1825.

	SUDDER ADAWLUT.				PROVINCIAL COURT.				JUDGES' COURTS.			
	Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.
				Months.				Months.				Months.
1805	58	31	79	30 ½	1,878	757	1,283	20 ¼	14,943	11,119	15,291	26 ½
1810	112	18	198	132 ½	1,779	804	2,909	44 ½	11,300	10,407	20,341	23 ½
1815	189	40	467	140	608	594	3,705	75	6,254	3,146	16,898	64 ½
1820	177	174	337	23	1,347	1,327	2,429	13	9,404	6,422	13,875	26
1825	142	99	425	51	1,828	1,155	3,519	36 ½	12,256	9,404	24,693	31 ½

REGISTERS.				SUDDER AMEENS.				MOONSIFFS.				
Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.	
			Months.				Months.				Months.	
9,440	7,753	9,180	14 ¼	7,160	6,395	7,423	14	226,384	234,126	87,624	4 ½	1805
8,456	7,547	7,853	12 ½	13,447	11,750	9,798	10	167,110	166,566	92,502	6 ½	1810
5,931	5,101	9,262	21 ¾	20,182	13,769	28,594	24 ½	83,729	59,249	58,235	11 ¾	1815
8,633	8,259	11,745	17	46,471	43,226	30,489	8	92,865	103,167	44,579	5	1820
7,051	5,195	11,698	27	48,830	44,330	36,101	9 ½	111,240	106,321	55,004	6	1825

(3.)—BENGAL CRIMINAL STATEMENTS.

(3.) *Bengal* Criminal Statements.

LIST.

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I.—STATEMENT of CRIMES ascertained to have been COMMITTED in the several ZILLAHS under the Presidency AND COMMITTED FOR TRIAL in the WESTERN PROVINCES,* and

	Crimes ascertained to have been committed.												Computed Number of Persons concerned.	Value of Property Stolen.	Value of Property Recovered.
	Dacoity:				Murder.	Homicide, not amounting to Murder.	Arson.	Highway Robbery.	Burglary.	Thefts, exceeding 10 Rupees, or attended with aggravating Circumstances.	Receiving Stolen Property.	Violent Affrays.			
	With Murder.	With Torture or Wounding.	Simple, and River Dacoity.	TOTAL.											
CALCUTTA DIVISION:															
Burdwan	1	3	10	14	2	3	–	1	42	71	–	1	543	7,472	1,383
Jungle Mehals	–	1	1	2	6	2	–	7	86	102	1	–	247	4,087	1,886
Midnapore	–	7	18	25	11	–	–	4	108	18	5	1	910	8,695	231
Cuttack	–	–	–	–	15	7	–	–	15	11	–	5	418	2,132	921
Jessore	–	3	–	3	4	2	–	–	142	13	1	–	266	10,212	942
Nuddea	–	1	3	4	8	5	–	1	342	42	1	3	647	11,841	517
Hooghly	1	26	36	63	4	3	–	–	118	15	2	6	1,208	16,212	132
Chandernagore	–	–	1	1	1	–	–	–	13	8	–	–	26	4,344	13
24 Pergunnahs	–	11	29	40	17	–	–	9	229	44	2	56	2,096	7,884	1,291
TOTAL	2	52	98	152	68	22	–	22	1,095	370	12	72	6,361	72,879	6,616
PATNA DIVISION:															
Ramghur	3	1	1	5	11	2	–	15	155	85	7	–	635	15,971	1,023
Behar	–	–	1	1	7	4	–	5	450	203	10	2	686	11,352	1,550
Tirhoot	–	1	3	4	5	4	–	2	803	119	1	1	2,074	23,216	365
Sarun	–	1	5	6	7	12	–	5	219	24	1	24	1,215	14,650	287
Shahabad	1	–	–	1	6	1	–	5	220	10	–	4	802	7,029	226
Patna City	–	1	2	3	1	2	–	1	274	64	2	4	633	13,690	1,565
TOTAL	4	4	12	20	37	25	–	33	2,121	505	21	35	6,045	85,908	5,016
MOORSHEDABAD DIVISION:															
Bhaugulpore	–	7	4	11	1	4	–	3	83	89	3	1	763	16,249	795
Purneah	5	13	21	39	13	1	–	1	826	31	3	1	2,026	29,528	1,179
Dinagepore	3	11	36	50	1	–	–	–	177	22	–	4	1,166	8,406	868
Rungpore	9	13	23	45	8	5	–	3	180	16	4	3	1,916	10,387	563
Rajeshahye	3	14	20	37	5	4	–	6	185	41	1	3	889	15,373	3,249
Beerbhoom	1	1	3	5	6	5	4	8	78	14	1	–	120	5,968	706
Moorshedabad City	1	2	6	9	8	7	–	3	375	182	1	8	737	40,996	459
TOTAL	22	61	113	206	42	26	4	24	1,904	395	13	20	7,626	1,26,907	7,819
DACCA DIVISION:															
Mymensing	1	19	43	63	9	–	–	1	40	4	–	4	2,235	11,918	396
Sylhet	–	3	1	4	–	2	1	–	88	2	–	–	199	3,833	969
Tipperah	–	1	17	18	–	5	–	–	64	21	2	–	358	6,225	847
Chittagong	–	2	3	5	3	2	–	–	11	6	–	–	130	5,316	216
Buckergunge	2	5	13	20	11	–	3	2	104	5	–	3	756	13,261	1,223
Dacca Jelalpore	–	–	4	4	3	–	–	–	216	68	1	1	446	7,466	351
Dacca City	–	2	11	13	6	1	–	–	99	95	8	2	463	8,650	934
TOTAL	3	32	92	127	32	10	4	3	653	201	11	10	4,587	62,438	4,936
TOTAL of LOWER PROVINCES	31	149	315	505	179	83	8	82	5,773	1,471	57	137	24,619	3,48,132	24,387

of *Bengal*, in 1813; the Number of PERSONS SUPPOSED TO HAVE BEEN CONCERNED; the Number APPREHENDED the COMPUTED AMOUNT of PROPERTY STOLEN and RECOVERED.

	Crimes ascertained to have been committed.											Number of Persons			Value of Property	
	Dacoity:															
	With Murder.	With Wounding.	Simple, and River Dacoity.	TOTAL.	Murder.	Murder by Thugs.	Highway Robbery.	Burglary.	Thefts.	Receiving Stolen Goods.	Violent Affrays.	Computed to have been concerned.	Apprehended.	Committed for Trial.	Stolen.	Recovered.
BAREILLY DIVISION:																
Cawnpore	1	2	–	3	23	10	33	500	71	–	12	685	415	57	27,079	2,328
Furruckabad	–	1	–	1	13	1	11	180	772	–	18	2,113	1,064	126	30,160	9,000
Etawah	2	–	–	2	23	5	27	474	1,243	–	4	1,747	1,379	94	41,278	5,066
Agrah	1	2	1	4	25	–	81	171	20	–	–	727	171	100	15,470	2,726
Allyghur	–	–	–	–	12	4	92	498	1,951	–	2	4,401	1,746	143	29,531	5,788
Saharunpore, South Division	10	22	1	33	18	–	162	489	684	–	8	1,962	591	34	- unknown.	
Ditto - North Division	–	–	–	–	9	–	23	205	454	–	2	469	207	41	22,852	1,423
Moradabad	13	25	20	58	32	–	77	397	986	2	29	2,739	487	60	53,574	12,662
Bareilly	6	14	13	33	32	–	39	365	1,925	–	29	3,337	927	91	39,405	2,116
TOTAL	33	66	35	134	187	20	555	3,239	8,716	2	104	18,180	6,987	746	2,59,353	41,111
BENARES DIVISION:																
Bundelcund	2	3	–	5	16	19	59	175	287	–	38	1,642	737	153	21,820	804
Allahabad	–	5	2	7	8	10	18	135	686	3	8	1,305	537	144	27,116	864
Mirzapore	–	1	2	3	19	–	7	170	17	–	4	1,556	195	88	26,066	2,193
Juanpore	3	10	4	17	8	–	15	142	407	–	6	2,526	354	8	15,813	650
Goruckpore	1	4	4	9	25	–	13	56	204	–	12	26,253	848	36	14,954	1,424
Benares	–	–	1	1	6	–	9	272	203	–	–	791	506	119	92,317	11,535
Ghazeepore	1	7	–	8	10	–	15	148	444	3	18	2,370	1,077	96	14,636	1,874
TOTAL	7	31	13	51	92	29	138	1,098	2,248	6	86	36,443	4,254	644	2,12,726	19,347
TOTAL of WESTERN PROVINCES	40	97	48	185	279	49	693	4,337	10,964	8	190	54,623	11,241	1,390	4,72,079	60,458

* The Returns from the Lower Provinces do not state the Numbers apprehended and committed.

II.—STATEMENT of CRIMES ascertained, by the Police Officers or otherwise, to have been COMMITTED in the HAVE BEEN CONCERNED, the Number APPREHENDED AND BROUGHT

ZILLAHS.	Dacoity:				Highway Robbery, Burglary, Cattle Stealing and Thefts:											
					With Murder.				With Wounding.				Without Personal Violence, but the Value of the Property exceeding 50 Rupees.			
	With Murder.	With Torture or Wounding.	Simple.	TOTAL.	Highway Robbery.	Burglary.	Cattle-stealing.	Theft.	Highway Robbery.	Burglary.	Cattle-stealing.	Theft.	Highway Robbery.	Burglary.	Cattle-stealing.	Theft.
CALCUTTA DIVISION:																
Burdwan	1	3	15	19	2	–	–	1	1	–	–	–	–	9	1	14
Jungle Mehals	–	–	5	6	–	–	–	1	–	–	–	–	–	16	1	11
On the River	–	–	1													
Midnapore	–	7	11	18	–	–	–	–	–	1	–	–	1	13	1	24
Cuttack	–	4	2	6	–	–	–	1	–	–	–	3	1	11	1	41
Jessore	–	3	2	5	–	–	–	1	–	5	–	–	–	30	1	11
Nuddeah	–	–	7	7	–	–	–	–	–	–	–	–	1	5	1	15
On the River	–	–	–													
Hooghly	4	1	–	5	1	1	–	–	1	–	–	–	–	7	–	11
On the River	–	–	–													
24 Pergunnahs	–	3	7	10	–	–	–	1	2	2	–	–	–	10	–	4
On the River	–	–	–													
Suburbs of Calcutta	–	–	3	3	–	–	–	–	–	–	–	–	–	28	–	65
	5	21	53	79	3	1	–	5	4	8	–	3	3	129	6	196
PATNA DIVISION:																
Ramghur	2	1	5	8	–	–	–	1	1	–	–	–	–	16	14	44
Behar	–	3	–	3	2	–	–	3	–	–	–	–	1	17	4	22
Tirhoot	–	–	–	–	–	–	–	–	–	–	–	–	–	46	8	33
Sarun	–	–	–	–	1	–	–	–	2	–	–	–	–	23	9	24
On the River	–	–	–													
Shahabad	1	–	–	1	1	–	–	–	6	1	–	6	–	24	7	22
On the River	–	–	–													
Patna	–	–	–	–	–	–	–	2	1	–	–	–	–	16	3	37
	3	4	5	12	4	–	–	6	10	1	–	6	1	142	45	182
MOORSHEDABAD DIVISION:																
Bhaugulpore	–	4	1	5	–	–	–	2	–	1	1	–	–	12	3	15
Purneah	2	6	–	8	1	–	–	–	–	–	–	–	–	24	3	21
Dinagepore	1	1	8	10	4	–	–	1	–	2	–	–	1	48	–	54
On the River	–	–	–													
Rungpore	–	1	2	4	–	–	–	–	–	1	–	–	–	47	–	12
On the River	–	–	1													
Rajeshahaye	1	8	11	23	–	–	–	–	1	–	–	–	–	7	–	11
On the River	–	–	3													
Beerbhoom	2	3	5	10	–	–	–	2	–	–	–	1	–	13	4	16
Moorshedabad	–	2	–	2	1	–	–	–	–	1	–	–	–	16	–	15
	6	25	31	62	6	–	–	5	1	5	1	1	1	167	10	144
DACCA DIVISION:																
Mymensing	1	–	5	6	–	–	–	–	–	1	–	–	–	22	–	9
On the River	–	–	–													
Sylhet	–	1	1	4	–	–	–	–	–	–	–	–	–	7	–	15
On the River	–	–	2													
Tipperah	–	–	1	1	–	–	–	–	–	1	–	–	–	5	2	9
On the River	–	–	–													
Chittagong	–	–	2	2	–	–	–	–	–	–	–	–	–	5	–	6
Backergunge	–	–	–	1	–	–	–	–	–	1	–	–	–	12	–	7
On the River	1	–	–													
Dacca Jelalpore	–	–	–	–	–	–	–	–	–	–	–	–	–	11	–	4
Dacca	–	–	–	–	–	–	–	–	–	1	–	–	–	5	–	15
On the River	–	–	–													
	2	1	11	14	–	–	–	–	–	4	–	–	–	67	2	65
TOTAL	16	51	100	167	13	1	–	16	15	18	1	10	5	505	63	587

LOWER PROVINCES under the Presidency of *Bengal*, in the Year 1828, the Number of PERSONS SUPPOSED TO TO TRIAL, and the Amount of PROPERTY STOLEN and RECOVERED.

Murder.	Homicide, not amounting to Murder.	Violent Affrays: Originating in Disputes regarding Boundaries, or the Possession of Lands, Crops, Wells, &c. — With Loss of Lives.	Violent Affrays: Originating in Disputes regarding Boundaries, or the Possession of Lands, Crops, Wells, &c. — With Wounding.	Violent Affrays: Originating in Causes distinct from those mentioned in the preceding Column. — With Loss of Lives.	Violent Affrays: Originating in Causes distinct from those mentioned in the preceding Column. — With Wounding.	Computed Number of Persons: Concerned.	Computed Number of Persons: Apprehended and brought to Trial.	Computed Value of Property: Stolen.	Computed Value of Property: Recovered.	Extent and Population of the Zillahs: Extent in Square Miles.	Extent and Population of the Zillahs: Population in 1822.	ZILLAHS.
2	5	2	–	–	–	719	369	13,837	1,285	2,000	1,187,580	Burdwan.
1	–	–	1	–	–	199	122	4,544	498	6,990	1,304,740	Jungle Mehals.
3	14	–	–	–	–	396	207	9,260	571	8,260	1,914,060	Midnapore.
7	10	–	–	–	3	870	246	26,461	5,968	9,040	1,984,620	Cuttack.
4	5	–	1	2	–	461	95	12,023	1,907	5,180	1,183,590	Jessore.
2	1	2	–	–	–	515	172	4,566	375	3,105	1,187,160	Nuddeah.
7	3	1	–	–	–	312	235	25,884	517	2,260	1,239,150	Hooghly.
4	2	–	–	2	2	457	232	10,768	342	3,160	599,595	24 Pergunnahs.
4	4	–	1	–	–	374	252	17,467	1,882	1,105	360,360	Suburbs of Calcutta.
34	34	5	3	4	5	4,295	1,930	124,810	13,345			
6	6	1	1	–	–	629	269	29,920	4,011	22,430	2,252,983	Ramghur.
3	6	1	9	–	1	484	234	12,936	3,608	5,235	1,340,610	Behar.
1	4	1	2	1	5	459	293	13,485	358	7,732	1,697,700	Tirhoot.
4	7	1	5	6	11	1,145	387	21,245	5,753	5,760	1,464,075	Sarun.
4	3	–	5	–	2	554	162	13,187	2,286	4,650	908,850	Shahabad.
1	4	1	–	–	–	185	112	23,192	4,981	667	255,705	Patna.
19	30	5	22	7	19	3,456	1,557	1,13,965	20,997			
2	3	–	1	–	–	433	216	8,361	212	7,270	797,790	Bhaugulpore.
2	3	2	1	1	1	1,099	185	16,353	803	7,460	1,362,165	Purneah.
3	3	1	–	–	–	610	311	21,353	653	5,920	2,341,420	Dinagepore.
6	9	1	1	–	–	591	236	10,405	930	7,856	1,340,350	Rungpore.
3	3	–	4	–	1	1,321	420	10,478	577	3,950	4,087,155	Rajeshahaye.
4	7	–	1	–	–	298	287	9,605	1,536	3,870	1,267,065	Beerbhoom.
4	9	–	1	–	–	211	136	12,257	1,762	1,870	762,690	Moorshedabad.
24	37	4	9	1	2	4,563	1,791	88,812	6,473			
3	3	–	–	–	–	172	93	6,352	170	6,998	1,454,670	Mymensing.
4	4	2	4	–	–	400	272	5,223	266	3,532	1,083,720	Sylhet.
1	4	–	2	–	–	202	102	2,156	370	6,830	1,372,360	Tipperah.
1	1	–	–	–	–	59	52	16,721	2,882	2,980	700,800	Chittagong.
8	6	–	–	–	–	117	136	3,957	847	2,780	686,640	Backergunge.
4	1	–	1	–	–	154	105	2,218	453	2,585	588,375	Dacca Jelalpore
–	2	–	–	–	–	56	45	4,231	2,649	1,870	512,385	Dacca.
21	21	2	7	–	–	1,160	805	40,858	7,637			
98	122	16	41	12	26	13,474	6,083	3,68,445	48,452			

III.—STATEMENT of CRIMES ascertained, by the Police Officers or otherwise, to have been COMMITTED in the

PROPERTY STOLEN

ZILLAHS.	Dacoity: With Murder.	Dacoity: With Wounding or Torture.	Dacoity: Without Personal Violence.	Dacoity: TOTAL.	Highway Robbery, Burglary, Cattle Stealing and Thefts: With Murder.	Highway Robbery, Burglary, Cattle Stealing and Thefts: With Wounding.	Highway Robbery, Burglary, Cattle Stealing and Thefts: Without Personal Violence, but the Value of the Property exceeding 50 Rupees.	Murder by Thugs.	Murder.
BAREILLY DIVISION:									
Cawnpore	–	–	1	1	4	6	45	2	4
Furruckabad	1	1	1	3	2	1	46	1	6
Sirpoorah Mynpoory	–	1	–	1	–	4	23	–	2
Etawah	1	–	–	1	1	6	17	–	4
Belah	–	–	–	–	1	4	10	–	2
Agrah	–	–	–	–	1	5	67	–	1
Ally Ghur	–	–	–	–	1	1	29	1	4
Bolundshuhur	–	–	–	–	1	7	53	1	2
Meerut	–	–	–	–	2	9	40	–	–
Saharunpore	–	–	–	–	6	7	53	–	3
Moozuffunurgur	–	–	–	–	1	4	10	–	–
Moradabad	1	–	–	1	1	8	34	–	1
Ditto - N. D.	2	2	6	10	1	29	25	–	3
Bareilly	–	–	–	–	3	5	78	–	9
Pillibheet	–	–	–	–	1	–	9	–	1
Shahjehanpore	–	–	–	–	2	15	26	–	6
	5	4	8	17	28	121	565	5	48
BENARES DIVISION:									
Bundelcund, S. D.	–	–	–	–	–	–	7	–	1
Ditto - N. D.	–	–	–	–	3	–	26	–	1
Allahabad	–	–	–	–	–	–	45	–	2
Futtehpore	–	–	–	–	1	–	31	4	1
Mirzapore	–	–	–	–	1	–	42	–	1
Juanpore	–	–	–	–	–	–	20	–	–
Goruckpore	–	–	–	–	1	1	18	–	5
Azimghur	–	–	–	–	–	–	21	–	2
Benares	–	–	–	–	4	1	28	–	–
Ghazeepore	–	–	–	–	–	1	58	–	4
	–	–	–	–	10	3	296	4	17
TOTAL	5	4	8	17	38	124	861	9	65

WESTERN PROVINCES under the Presidency of *Bengal*, in the Year 1828, and of the COMPUTED VALUE of the and RECOVERED.

[*The Returns do not state the Number of Persons concerned, nor the Number Apprehended and brought to Trial.*

Homicide, not amounting to Murder.	Child-Stealing.	Violent Affrays, Attended with Loss of Lives. Originating in Disputes regarding Boundaries or the Possession of Lands, Crops Wells, &c.	Violent Affrays, Attended with Loss of Lives. Originating in Causes distinct from those mentioned in the preceding Column.	Violent Affrays, With Beating.	Violent Affrays, TOTAL.	Estimated Amount of Property, Stolen.	Estimated Amount of Property, Recovered.	Extent of the Districts in Square Miles. *	
1	2	1	–	5	6	12,721	1,173	2,650	Cawnpore.
5	–	4	2	8	14	14,673	2,392	1,850	Furruckabad.
2	1	–	–	2	2	5,524	757	–	Sirpoorah. Mynpoory.
–	–	–	–	–	–	4,734	360	3,450	Etawah.
–	2	–	1	–	1	2,637	250	–	Belah.
6	10	–	2	1	3	19,351	2,824	3,500	Agrah.
4	–	–	1	3	4	10,262	2,549	3,400	Ally Ghur.
3	–	–	–	–	–	15,212	2,017	1,950	Bolundshuhur.
–	–	–	–	–	–	11,442	4,640	2,250	Meerut.
1	–	1	–	1	2	14,071	2,070	3,800	Saharunpore.
1	–	–	–	–	–	3,085	459	–	Moozuffunurgur.
–	–	–	–	4	4	14,583	1,050	5,800	Moradabad.
4	–	–	–	–	–	9,723	654		Ditto - N. D.
4	–	–	2	1	3	17,007	2,764	6,900	Bareilly.
2	–	–	–	–	–	1,268	277	–	Pillibheet.
3	–	3	–	1	4	9,975	1,741	1,420	Shahjehanpore.
36	15	9	8	26	43	1,66,268	25,977	–	
2	–	–	3	2	5	2,237	200	4,680	Bundelcund, S. D.
1	–	–	–	1	1	4,042	471		Ditto - N. D.
1	1	2	–	3	5	12,173	740	2,650	Allahabad.
6	1	2	1	–	3	8,417	1,105	1,780	Futtehpore.
2	–	–	–	2	2	14,139	1,380	3,650	Mirzapore.
5	–	2	–	1	3	5,433	566	1,820	Juanpore.
3	–	2	–	3	5	5,633	1,902	9,520	Goruckpore.
–	–	1	–	–	1	10,996	691	2,240	Azimghur.
–	–	2	–	2	4	10,186	2,045	350	Benares.
8	–	2	–	1	3	80,968	13,288	2,850	Ghazeepore.
28	2	13	4	15	32	1,54,224	22,388	–	
64	17	22	12	41	75	3,20,494	48,365	–	

* There are no Returns of the *Population* of these *Districts*. The Population of the whole of the *Western Provinces* is stated to have been, in 1822, 32,206,806.

IV.—STATEMENT of the NUMBER of PERSONS COMMITTED FOR TRIAL, and CONVICTED before the COURTS Minor Offences, within the LOWER PROVINCES

ZILLAHS.	Committed for Trial, and Convicted, before the Courts - - -											
	Dacoity.		Highway Robbery, Burglary, and serious Thefts.		Receiving Stolen Property.		Wilful Murder and Homicide.		Violent Affrays, with Murder and Wounding.		Perjury, Forgery, and Coining.	
	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.
CALCUTTA DIVISION:												
Burdwan - - - -	69	-	4	-	6	5	17	2	25	-	14	4
Jungle Mehals - - -	40	14	1	1	7	-	1	1	-	-	-	-
Midnapore - - -	55	15	-	-	-	4	9	2	-	-	-	-
Cuttack - - - -	13	12	4	4	1	-	23	13	-	-	5	5
Jessore - - - -	9	-	7	6	-	-	19	4	25	8	8	2
Nuddeah - - - -	26	10	-	-	-	-	5	-	28	17	6	1
Hooghly - - - -	18	3	-	-	-	-	6	2	6	5	3	-
24 Pergunnahs - - -	33	13	1	-	-	-	8	1	10	9	2	-
Suburbs of Calcutta - -	1	-	-	-	2	2	14	6	17	8	2	1
	264	67	17	11	16	11	102	31	111	47	40	13
PATNA DIVISION:												
Ramghur - - - -	22	13	2	2	-	-	8	2	8	8	1	1
Behar - - - -	36	15	17	2	1	-	11	7	65	42	17	2
Tirhoot - - - -	-	-	-	-	-	-	21	17	72	56	2	2
Sarun - - - -	-	-	2	-	-	-	9	2	101	15	10	2
Shahabad - - -	-	-	17	15	-	-	4	3	-	-	-	-
Patna - - - -	-	-	1	-	-	-	7	-	5	5	-	-
	58	28	39	19	1	-	60	31	251	126	30	7
MOORSHEDABAD DIVISION:												
Bhaugulpore - - -	19	9	6	-	-	-	2	2	-	-	1	1
Purneah - - - -	14	7	7	-	1	-	5	4	15	15	2	1
Dinagepore - - -	38	10	20	1	1	-	12	3	24	12	-	-
Rungpore - - -	11	5	1	1	2	-	38	2	2	-	11	11
Rajeshahye - - -	54	28	-	-	-	-	14	7	19	9	-	-
Beerbhoom - - -	29	8	2	1	-	-	10	-	7	1	-	-
Moorshedabad - - -	8	-	13	1	2	1	11	3	9	6	1	-
	173	67	49	4	6	1	92	21	76	43	15	13
DACCA DIVISION:												
Mymensing - - -	6	-	-	-	2	2	36	2	-	-	-	-
Sylhet - - - -	28	27	-	-	7	6	13	4	35	33	3	5
Tipperah - - - -	-	-	-	-	-	-	2	-	7	3	10	7
Chittagong - - -	10	8	-	-	1	-	2	1	-	-	-	-
Backergunge - - -	-	-	-	-	4	4	21	5	-	-	-	-
Dacca Jelalpore - -	-	-	-	-	-	-	1	-	13	-	1	1
Dacca - - - -	-	-	-	-	3	3	7	3	-	-	1	-
	44	35	-	-	17	15	82	15	55	36	15	13
TOTAL - - -	539	197	105	34	40	27	336	98	493	252	100	46

of CIRCUIT, and of the NUMBER APPREHENDED and PUNISHED by the Magistrates and their Assistants for under the Presidency of *Bengal*, in the Year 1828.

- - of Circuit.				Apprehended and Punished by the Magistrates and their Assistants								ZILLAHS.
Various other Offences.		TOTAL.		For Petty Burglaries, Cattle Stealing, Thefts, and Receiving Stolen Property.			For Petty Affrays and other Offences.			TOTAL		
Committed.	Convicted.	Committed.	Convicted.	Apprehended.	Punished by the Magistrate or Joint Magistrate.	Punished by the Assistant.	Apprehended.	Punished by the Magistrate or Joint Magistrate.	Punished by the Assistant.	Apprehended for Petty Offences.	Punished for Petty Offences.	
26	7	161	13	396	223	–	956	296	15	1,352	534	Burdwan.
32	1	85	22	992	338	4	1,515	298	3	2,507	643	Jungle Mehals.
–	–	64	17	332	208	6	1,288	428	35	1,620	677	Midnapore.
17	17	63	55	916	388	–	2,185	745	28	3,101	1,161	Cuttack.
26	4	94	24	604	207	29	5,284	135	48	5,888	419	Jessore.
1	1	66	29	349	111	17	1,023	428	64	1,372	620	Nuddeah.
5	–	38	10	451	230	–	2,001	749	11	2,452	990	Hooghly.
2	–	56	23	491	157	–	1,276	433	3	1,767	593	24 Pergunnahs.
1	1	37	18	623	143	55	1,428	123	184	2,051	505	Suburbs of Calcutta.
110	31	664	211	5,154	2,005	111	16,956	3,635	391	22,110	6,142	
6	1	47	27	1,808	776	197	1,053	137	86	2,861	1,196	Ramghur.
24	12	171	80	1,124	419	15	1,943	468	5	3,067	907	Behar.
14	9	409	84	550	167	74	1,383	241	422	1,933	904	Tirhoot.
14	6	136	25	472	137	19	825	134	129	1,297	419	Sarun.
19	5	40	23	310	126	18	1,321	578	93	1,631	815	Shahabad.
5	4	18	9	572	165	43	1,558	432	323	2,130	963	Patna.
82	37	521	248	4,836	1,790	366	8,083	1,990	1,058	12,919	5,204	
11	4	39	16	532	352	17	2,053	1,372	85	2,583	1,826	Bhaugulpore.
15	–	59	27	1,718	449	–	266	55	–	1,984	504	Purneah.
17	4	112	30	1,293	458	–	1,994	339	–	3,287	797	Dinagepore.
28	14	93	33	692	268	–	1,191	425	–	1,883	693	Rungpore.
–	–	87	42	671	127	–	1,597	335	–	2,268	462	Rajeshahye.
–	–	48	10	750	325	36	526	172	76	1,276	609	Beerbhoom.
17	5	61	16	1,781	241	3	3,935	1,645	81	5,716	1,970	Moorshedabad.
88	27	499	174	7,437	2,220	56	11,562	4,343	242	18,999	6,861	
7	6	51	14	–	–	–	–	–	–	–	–	Mymensing.
9	9	95	84	432	75	13	2,536	747	107	2,968	942	Sylhet.
28	9	47	19	676	356	48	3,396	1,154	144	4,072	1,702	Tipperah.
29	18	42	27	235	52	12	1,380	294	17	1,615	375	Chittagong.
5	4	30	13	722	458	–	1,690	569	–	2,412	1,027	Backergunge.
6	2	21	3	372	74	–	2,257	1,744	–	2,629	1,818	Dacca Jelalpore.
5	–	16	6	432	197	–	2,033	971	21	2,465	1,189	Dacca.
89	48	302	166	2,869	1,212	73	13,292	5,479	289	16,161	7,053	
369	143	1,986	799	20,296	7,227	696	49,893	15,447	1,980	70,189	25,260	- TOTAL.

V.—STATEMENT of the NUMBER of PERSONS COMMITTED for TRIAL and CONVICTED, before the Minor Offences, within the WESTERN PROVINCES

	COMMITTED for TRIAL, CONVICTED, and REFERRED to the NIZAMUT																	
	Dacoity, with Murder.		Dacoity, without Murder.		Highway Robberies, Burglaries and Thefts, with Murder.		Highway Robberies, Burglaries and Thefts, without Murder.		Receiving Stolen Property.		Murder.		Murder by Thugs.		Homicide, not amounting to Murder.		Kidnapping, and Selling of Children and Women	
	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.
Cawnpore	13	–	16	13	22	1	56	24	5	1	16	3	–	–	5	5	8	7
Furruckabad	8	–	–	–	6	1	25	12	2	–	35	13	–	–	6	3	4	4
Mynpoory	–	–	–	–	–	–	34	18	3	2	3	–	–	–	–	–	2	2
Etawah	–	–	10	–	–	–	26	12	3	–	34	2	–	–	3	1	3	–
Belah	–	–	–	–	–	–	27	17	–	–	23	–	–	–	1	–	8	6
Agrah	–	–	6	–	2	1	16	15	–	–	10	5	–	–	–	–	1	1
Allyghur	–	–	–	–	7	2	38	16	3	–	3	–	–	–	4	3	12	2
Bolundshuhur	–	–	–	–	–	–	14	10	–	–	18	6	–	–	5	1	–	–
Meerut	–	–	–	–	6	5	23	13	1	1	5	–	–	–	–	–	–	–
Seharunpore	–	–	2	2	1	–	36	28	1	–	7	2	–	–	3	1	–	–
Moozuffurnugur	–	–	–	–	1	1	10	3	–	–	–	–	–	–	–	–	–	–
Moradabad	–	–	–	–	3	–	53	28	2	–	12	5	–	–	4	–	–	–
Ditto, North Division	5	–	–	–	4	–	22	16	–	–	7	–	–	–	1	1	–	–
Bareilly	–	–	2	1	4	2	52	28	2	1	19	1	–	–	5	2	3	3
Pillibheet	–	–	13	–	2	–	5	2	2	1	2	–	–	–	1	–	–	–
Shahjehanpore	1	–	1	1	3	–	22	17	1	1	14	1	–	–	8	5	1	1
	27	–	50	17	61	13	459	259	25	7	208	38	–	–	46	22	42	26
BENARES DIVISION:																		
Bundelcund, South Division	–	–	–	–	5	1	10	5	3	–	7	1	–	–	33	2	2	2
Ditto – North Division	–	–	–	–	2	–	23	14	1	1	16	5	–	–	4	4	1	2
Allahabad	1	1	14	6	1	–	44	28	9	2	15	4	–	–	1	1	7	6
Futtehpore	–	–	–	–	–	–	21	9	1	1	5	1	2	–	1	1	1	1
Mirzapore	–	–	–	–	2	2	30	21	3	3	3	–	–	–	16	12	14	9
Juanpore	–	–	2	1	–	–	14	12	1	–	10	–	–	–	3	2	1	–
Goruckpore	3	3	–	–	–	–	14	10	2	1	–	–	–	–	3	2	–	–
Azimghur	–	–	–	–	–	–	9	8	1	1	7	–	–	–	1	–	–	–
Benares	–	–	6	–	2	1	45	32	27	13	6	3	–	–	–	–	1	1
Ghazeepore	1	–	–	–	1	–	45	20	–	–	47	7	–	–	–	–	1	1
	5	4	22	7	13	4	255	159	48	22	116	21	2	–	62	24	28	22
	32	4	72	24	74	17	714	418	73	29	324	59	2	–	108	46	70	48

Prisoners died before trial.

Cawnpore	1	Moradabad, North Division	3
Belah	1	Bareilly	1
Agrah	1	Bundelcund, South Division	1
Allyghur	1	Ditto – North Division	1
Seharunpore	1	Ghazeepore	1
Moradabad	2		14

COURTS of CIRCUIT, and of the NUMBER APPREHENDED and PUNISHED by the MAGISTRATES for under the Presidency of *Bengal*, in the Year 1828.

ADAWLUT, by the COURTS of CIRCUIT.											APPREHENDED and PUNISHED by the MAGISTRATES.					
Affrays, with Homicide.		Affrays, without Homicide.		Perjury, Forgery and Coining.		Various other Offences.		TOTAL.			For petty Burglaries, Cattle Stealing, Thefts, and receiving Stolen Property.		For petty Affrays, Assaults, and other Offences.		TOTAL, (Minor Offences.)	
Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Committed.	Convicted.	Referred to the Nizamut Adawlut.	Apprehended.	Punished.	Apprehended.	Punished.	Apprehended.	Punished.
39	15	–	–	2	1	6	4	188	74	–	517	178	1,488	609	2,005	787
37	4	12	12	2	–	31	19	168	68	3	950	264	1,379	337	2,329	601
7	3	–	–	5	1	4	3	58	29	1	536	173	122	38	658	211
–	–	–	–	1	–	46	24	126	39	1	580	243	279	124	859	367
–	–	–	–	–	–	15	–	74	23	1	403	149	37	12	440	161
24	22	–	–	3	–	5	4	67	48	4	1,005	479	1,901	1,181	2,906	1,660
17	11	7	6	1	–	13	9	105	49	3	1,289	698	302	207	1,591	905
–	–	–	–	3	3	5	3	45	23	4	927	253	587	307	1,514	560
6	–	–	–	–	–	1	–	42	19	2	1,570	533	776	76	2,346	609
–	–	21	8	3	1	14	10	88	52	1	493	191	1,359	319	1,852	510
–	–	–	–	1	1	28	5	40	10	–	593	193	361	121	954	314
23	6	18	15	7	2	24	3	146	59	20	800	288	788	495	1,588	783
23	19	–	–	3	1	4	1	69	38	18	302	111	83	16	385	127
50	38	19	8	–	–	16	9	172	93	8	803	312	262	34	1,065	346
–	–	–	–	–	–	11	5	36	8	2	—	—	—	—	—	—
5	5	–	–	2	1	6	2	64	34	13	636	264	399	198	1,035	461
231	123	77	49	33	11	229	101	1,488	666	81	11,404	4,329	10,123	4,074	21,527	8,403
37	21	9	4	3	–	5	2	114	38	23	473	170	412	115	885	285
21	17	6	1	–	–	9	3	83	47	4	412	164	242	161	654	325
21	9	1	1	11	5	10	7	135	70	8	474	292	64	28	538	320
27	6	9	–	15	–	7	2	89	21	8	176	80	875	178	1,051	258
18	–	19	18	3	–	9	6	117	71	1	409	161	1,170	176	1,579	337
36	18	13	–	–	–	11	4	91	37	41	342	124	515	172	857	296
37	9	1	1	–	–	4	4	64	30	4	418	270	1,099	49	1,517	761
17	5	80	21	–	–	7	2	122	37	22	475	156	1,286	306	1,761	462
12	12	34	25	9	4	12	4	154	95	72	528	271	1,180	619	1,708	890
113	34	21	18	–	–	7	4	236	84	14	—	—	—	—	—	—
339	131	193	89	41	9	81	38	1,205	530	197	3,707	1,688	6,843	2,246	10,550	3,934
570	254	270	138	74	20	310	139	2,693	1,196	278	15,111	6,017	16,966	6,320	32,077	12,337

Ordered to give security, though not convicted.

Furruckabad	1	22
Belah	7	
Bolundshuhur	5	
Seharunpore	1	
Moradabad	2	
Bareilly	1	
Allahabad	5	

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

VI.—STATEMENT of the NUMBER of FOUJDARRY CASES referred, under Regulation III. WESTERN PROVINCES, and decided by

ZILLAHS.	1827.					
	ASSAULTS.		PETTY THEFTS.		TOTAL.	
	Referred.	Decided.	Referred.	Decided.	Referred.	Decided.
BAREILLY DIVISION.						
Cawnpore	202	190	119	117	321	307
Furruckabad	261	247	82	81	343	328
Sirpoorah	—	—	—	—	—	—
Mynpoory	51	49	234	217	285	266
Agra	383	197	454	233	837	430
Allyghur	97	91	130	130	227	221
Bolundshuhur	4	4	4	4	8	8
Meerut	2	2	-	-	2	2
Seharunpore	191	175	7	7	198	182
Moradabad	171	165	159	159	330	324
Bareilly	48	38	38	37	86	75
Shahjehanpore	15	11	-	-	15	11
	1,425	1,169	1,227	985	2,652	2,154
BENARES DIVISION.						
Bundelcund, S. D.	77	75	13	13	90	88
Ditto - - N. D.	69	45	28	27	97	72
Allahabad	69	69	63	63	132	132
Futtehpore	-	-	-	-	-	-
Mirzapore	88	84	-	-	88	84
Juanpore	53	47	5	5	58	52
Goruckpore	230	218	6	6	236	224
Azimghur	108	89	39	38	147	127
Benares	12	10	-	-	12	10
Ghazeepore	-	-	-	-	-	-
	706	637	154	152	860	789
TOTAL	2,131	1,806	1,381	1,137	3,512	2,943

1821, to the Law Officers and Sudder Ameens of the several Zillahs in the them, in the Years 1827 and 1828.

1828.						
ASSAULTS.		PETTY THEFTS.		TOTAL.		ZILLAHS.
Referred.	Decided.	Referred.	Decided.	Referred.	Decided.	
						BAREILLY DIVISION.
- - - - -		Returns not received.		- - - - -		- - Cawnpore.
229	200	72	71	301	271	- - Furruckabad.
—	—	—	—	—	—	- - Sirpoorah.
31	30	195	192	226	222	- - Mynpoory.
285	235	226	198	511	433	- - Agra.
115	104	111	111	226	215	- - Allyghur.
23	23	162	162	185	185	- - Bolundshuhur.
—	—	—	—	—	—	- - Meerut.
269	243	8	8	277	251	- - Seharunpore.
346	322	130	130	476	452	- - Moradabad.
66	55	14	12	80	67	- - Bareilly.
41	34	2	2	43	36	- - Shahjehanpore.
1,405	1,246	920	886	2,325	2,132	
						BENARES DIVISION.
48	34	12	12	60	46	- - Bundelcund, S. D.
114	111	19	19	133	130	- - Ditto - - N. D.
56	54	2	2	58	56	- - Allahabad.
129	102	32	28	161	130	- - Futtehpore.
12	12	3	3	15	15	- - Mirzapore.
32	21	1	1	33	22	- - Juanpore.
30	26	- -	- -	30	26	- - Goruckpore.
108	103	37	36	145	139	- - Azimghur.
131	97	- -	- -	131	97	- - Benares.
1	1	2	2	3	3	- - Ghazeepore.
661	561	108	103	769	664	
2,066	1,807	1,028	989	3,094	2,796	- - TOTAL.

VII.—STATEMENT of the NUMBER of PERSONS CONVICTED of CRIMES before the

from 1816 to

	1816.			1817.			1818.			1819.			1820.			1821.		
	Lower Provinces.	Western Provinces.	TOTAL.	L.P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.
CRIMES:																		
Murder, or Offences with Murder	84	64	148	115	75	190	46	58	104	102	84	186	103	80	183	216	129	345
Manslaughter or Homicide	29	4	33	23	–	23	9	2	11	20	6	26	16	3	19	22	18	40
Dacoity, or Robbery by open violence	187	54	241	197	59	256	147	82	229	253	97	350	374	68	432	255	66	321
Burglary, Theft, and receiving stolen Property	85	25	110	49	41	90	66	26	92	75	25	100	55	15	70	19	1	20
Perjury	3	1	4	5	4	9	4	–	4	1	1	2	9	–	9	–	1	1
Other Crimes	47	34	81	61	23	84	61	15	76	38	32	70	31	36	67	43	81	124
	435	182	617	450	202	652	333	183	516	489	245	734	588	202	790	555	296	851
SENTENCES:																		
Death	54	38	92	61	55	116	25	31	56	43	52	95	25	29	54	21	36	57
Transportation or Imprisonment for Life	227	70	297	231	60	291	155	105	260	246	107	353	220	102	322	188	90	278
Imprisonment above seven, not above fourteen years	47	16	63	47	21	68	53	16	69	65	15	80	51	14	65	82	29	111
Ditto above one, not above seven years	55	34	89	64	22	86	59	20	79	100	55	155	263	49	312	220	113	333
Ditto not above one year	24	13	37	18	16	34	16	4	20	23	6	29	22	5	27	4	4	8
	407	171	578	421	174	595	308	176	484	477	235	712	581	199	780	515	272	787

NIZAMUT ADAWLUT in *Bengal*, and of the SENTENCES passed by that Court, in each Yea
1827 inclusive.

1822.			1823.			1824.			1825.			1826.			1827.			
L.P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.	L. P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.	L.P.	W.P.	TOTAL.	CRIMES:
111	162	273	124	174	298	132	99	231	103	150	253	142	173	315	138	97	235	Murder, or Offences with Murder.
43	37	80	78	34	112	50	50	100	63	142	205	83	95	178	32	83	115	Manslaughter or Homicide.
213	52	265	160	113	273	298	87	385	174	100	274	57	69	126	57	26	83	Dacoity, or Robbery by open violence.
14	5	19	14	18	32	43	14	57	53	43	96	36	35	71	4	22	26	Burglary, Theft, and receiving stolen Property.
2	1	3	3	1	4	3	4	7	8	10	18	2	1	3	2	6	8	Perjury.
40	17	57	35	32	67	56	35	91	9	134	229	104	55	159	45	49	94	Other Crimes.
423	274	697	414	372	786	582	289	871	496	579	1075	424	428	852	278	283	561	
																		SENTENCES:
23	29	52	46	39	85	31	22	53	26	42	68	26	41	67	24	32	56	Death.
103	64	167	57	68	125	95	61	156	51	78	129	76	100	176	101	53	154	Transportation or Imprisonment for Life.
117	74	191	112	96	208	215	87	302	194	138	332	64	74	138	64	28	92	Imprisonment above seven, not above fourteen years.
147	84	231	101	132	233	162	101	263	169	191	360	147	182	329	78	141	219	Ditto above one, not above seven years.
7	9	16	10	12	22	46	10	56	22	32	54	14	13	27	8	17	25	Ditto not above one year.
397	260	657	326	347	673	549	281	830	462	481	943	327	410	737	275	271	546	

VIII.—ABSTRACT of RETURNS of the PERSONS SENTENCED to PUNISHMENT, without Reference to the

	1816.	1817.	1818.	1819.	1820.
OFFENCES:					
1. Adultery	40	20	35	6	20
2. Affray	606	568	687	393	627
3. Arson	9	11	15	24	15
4. Assault	97	60	-	60	76
5. Burglary	655	1,081	1,117	435	394
6. Cattle-stealing	75	65	63	6	6
7. Child-stealing and Kidnapping	10	7	31	43	31
8. Coin, counterfeiting the current	1	-	1	2	11
9. Ditto, putting off, and uttering counterfeit	5	3	4	9	2
10. Embezzlement	41	57	52	20	18
11. Felony and Misdemeanour (not otherwise described)	117	110	149	45	42
12. Forgery and Uttering	6	10	11	15	28
13. Larceny	429	506	581	184	159
14. Manslaughter	64	88	106	66	61
15. Perjury	17	28	33	22	39
16. Rape	-	2	1	-	8
17. Robbery on the Person, on the Highway, and in other places	17	20	13	29	52
18. *Shooting, Wounding, or Poisoning*, with intent to kill	30	98	71	66	55
19. *Sodomy*	1	2	2	1	2
20. *Stolen Goods*, receiving	108	125	141	45	89
TOTAL	2,328	2,861	3,111	1,471	1,735
PUNISHMENTS:					
Imprisonment,					
Above 10, not exceeding 14 years	251	499	228	78	20
Above 7, not exceeding 10 „	39	8	80	16	20
7 Years	472	585	578	152	94
6 Years	41	90	40	78	38
5 Years	107	238	148	112	192
4 Years	108	149	177	164	263
3 Years	354	382	554	220	363
2 Years, and above 1 year	281	311	464	275	325
1 Year, and above 6 months	341	340	484	182	186
6 Months, and under	280	220	344	192	232
Whipping, Fine, &c. without Imprisonment	54	38	14	-	1
Admonished and released, the Imprisonment already suffered being considered to be adequate to their offences	-	-	-	-	-
	2,328	2,860*	3,111	1,469 †	1,734 ‡
Of the above,					
To Tusheer, or Public Exposure	14	15	15	17	22
– Hard Labour	1,612	2,327	1,371	926	1,045
– Banishment	242	472	224	74	19
– Fine	36	51	82	50	44
– Whipping	1,062	1,562	1,179	528	381

* The remaining convict proving insane, the usual provision was made for his safe custody.

† Two insane prisoners were not sentenced to any specific punishment, but provision was made for their safe custody.

‡ One notorious offender, convicted of training children as Decoits, was sentenced to indefinite imprisonment, unless he furnished security for his good conduct.

Nizamut Adawlut, by the COURTS of CIRCUIT under the Presidency of *Bengal*, from 1816 to 1826 inclusive.

1821.	1822.	1823.	1824.	1825.	1826.	
						OFFENCES:
14	12	11	28	5	15	1. Adultery.
672	503	496	918	570	566	2. Affray.
26	4	39	25	22	25	3. Arson.
28	81	39	92	98	76	4. Assault.
348	346	323	526	436	600	5. Burglary.
7	48	19	18	17	14	6. Cattle-stealing.
25	28	32	47	16	41	7. Child-stealing and Kidnapping.
4	- -	9	10	1	7	8. Coin, counterfeiting the current.
5	5	9	14	10	3	9. Ditto, putting off, and uttering counterfeit.
19	19	40	49	23	26	10. Embezzlement.
59	54	33	102	68	39	11. Felony and Misdemeanour (not otherwise described.)
12	17	19	35	30	30	12. Forgery and Uttering.
114	133	125	233	5	218	13. Larceny.
85	102	196	123	153	97	14. Manslaughter.
39	44	37	66	44	22	15. Perjury.
2	1	1	1	2	- -	16. Rape.
36	24	65	124	444	193	17. Robbery on the Person, on the Highway, and in other places.
88	61	77	113	60	130	18. Shooting, Wounding, or Poisoning, with intent to kill.
4	- -	2	3	1	5	19. Sodomy.
89	88	127	165	64	109	20. Stolen Goods, receiving.
1,676	1,570	1,699	2,692	2,069	2,216	- - TOTAL.
						PUNISHMENTS:
						Imprisonment,
14	4	4	123	164	167	Above 10, not exceeding 14 years.
7	29	9	38	44	47	Above 7, not exceeding 10 ditto.
113	92	190	356	256	236	7 Years.
26	38	41	47	53	86	6 Years.
216	175	361	823	469	519	5 Years.
217	235	248	267	240	274	4 Years.
422	303	340	379	265	301	3 Years.
360	365	234	246	241	249	2 Years, and above 1 year.
172	207	126	224	193	202	1 Year, and above 6 months.
123	116	129	155	137	122	6 Months, and under.
6	6	15	22	7	13	Whipping, Fine, &c. without Imprisonment.
- -	- -	- -	12	—	—	Admonished and released, the Imprisonment already suffered being considered to be adequate to their offences.
1,676	1,570	1,697 §	2,692	2,069	2,216	
						Of the above,
17	19	32	57	30	29	To Tusheer, or Public Exposure.
1,154	1,062	1,416	2,285	1,788	1,405	- Hard Labour.
24	9	16	95	178	139	- Banishment.
28	37	19	1	1	7	- Fine.
311	523	386	797	507	644	- Whipping.

§ Two individuals, one blind and one insane, were not sentenced to any punishment, but provision was made for the safe custody of the latter.

IX.—ABSTRACT of the ANNUAL RETURNS of PRISONERS PUNISHED, without Reference, - -

	Division of CALCUTTA.				Division of DACCA.				Division of MOORSHEDABAD.			
	1824.	1825.	1826.	1827.	1824.	1825.	1826.	1827.	1824.	1825.	1826.	1827.
OFFENCES:												
1. Arson	–	–	–	–	–	–	22	20	–	–	27	6
2. Affray	941	1,551	32	43	803	1,080	23	58	1,341	993	36	9
3. Assault and Battery			1,053	1,123			944	945			816	505
4. Bribery	–	–	26	112	–	–	30	20	–	–	32	55
5. Burglary	211	150	265	265	200	163	248	188	459	329	473	335
6. Cattle-stealing, and aiding therein	243	173	165	275	240	167	220	174	414	470	250	234
7. Escape from Custody	–	–	15	10	–	–	16	5	–	–	54	20
8. False Complaint (Frauds. *See* No. 20.)	–	–	196	317	–	–	310	363	–	–	178	97
9. Larceny, or privity thereto. (*See* No. 18.)	–	–	1,232	1,512	–	–	682	504	–	–	1,021	864
10. Manslaughter	–	–	5	–	–	–	–	7	–	–	26	6
11. Neglect of Duty	–	–	2,113	1,725	–	–	570	638	–	–	1,569	1,095
12. Perjury	–	–	24	17	–	–	20	24	–	–	5	58
13. Plundering	–	–	164	123	–	–	128	92	–	–	115	78
14. Receiving Stolen Goods, and harbouring Thieves. (*See* No. 18.)	–	–	49	48	–	–	47	63	–	–	33	49
15. Resistance of Process	–	–	88	129	–	–	215	171	–	–	65	20
16. Riot	–	–	380	579	–	–	442	207	–	–	205	108
17. Snatching from the Person, &c.	–	–	131	95	–	–	87	62	–	–	382	161
18. Theft, and receiving Stolen Goods	1,385	1,028	–	–	501	473	–	–	1,914	1,386	–	–
19. Vagrancy	–	–	14	19	–	–	26	29	–	–	52	7
20. Frauds, and other Offences not otherwise enumerated	3,636	2,390	669	816	1,704	1,469	1,045	1,082	2,895	3,070	712	462
TOTAL	6,416	5,292	6,621	7,208*	3,448	3,352	5,075	4,652	7,023	6,248	6,051†	4,169‡
PUNISHMENTS:				*7,409 in the Return.							†6,048 in the Return.	‡4,279 in the Return.
Imprisonment for Two years	125	157	184	218	202	156	255	245	366	396	304	288
One year, and under two years	187	119	155	224	119	141	151	110	252	192	211	200
Above six months, and under one year	7	13	15	3	10	35	2	1	49	62	10	17
Six months and under	4,420	3,233	2,762	3,078	2,779	2,638	2,623	2,485	3,858	3,898	2,569	2,216
Of the above,												
To Fine	294	718	2,453	2,262	84	275	2,354	2,087	1,461	395	1,871	1,131
Whipping	2,145	1,630	2,124	2,374	692	574	832	589	2,061	2,174	2,268	1,507
Hard Labour	1,141	893	1,067	1,532	684	764	1,246	1,559	1,586	1,559	1,926	1,972
Dismissal, or Suspension from Office	188	224	358	304	80	52	140	123	120	128	546	136

- - by the Zillah Magistrates and Joint Magistrates and their Assistants, from 1824 to 1827 inclusive.

Division of PATNA.				Division of BENARES.				Division of BAREILLY.				TOTAL.			
1824.	1825.	1826.	1827.	1824.	1825.	1826.	1827.	1824.	1825.	1826.	1827.	1824.	1825.	1826.	1827.
–	–	74	5	–	–	6	4	–	–	15	6	–	–	144	41
985	932	147	86	917	1,092	126	54	828	1,110	237	326	5,815	6,758	601	576
		645	504			1,155	811			833	1,166			5,446	5,054
–	–	8	6	–	–	24	5	–	–	23	18	–	–	143	216
269	231	297	362	346	322	302	338	433	357	727	628	1,918	1,552	2,312	2,116
348	430	409	330	664	468	479	390	1,043	1,076	1,444	1,358	2,952	2,784	2,958	2,761
–	–	20	9	–	–	14	15	–	–	21	22	–	–	140	81
–	–	123	144	–	–	115	102	–	–	236	201	–	–	1,158	1,224
–	–	1,283	1,212	–	–	1,412	1,362	–	–	2,926	2,227	–	–	8,556	7,681
–	–	–	–	–	–	–	1	–	–	2	8	–	–	33	22
–	–	1,319	1,303	–	–	1,360	912	–	–	2,097	2,283	–	–	9,028	7,956
–	–	16	14	–	–	10	5	–	–	10	16	–	–	85	134
–	–	31	37	–	–	48	8	–	–	16	25	–	–	502	363
–	–	71	71	–	–	113	112	–	–	387	297	–	–	700	640
–	–	202	120	–	–	137	115	–	–	145	136	–	–	852	691
–	–	189	149	–	–	130	69	–	–	184	317	–	–	1,530	1,429
–	–	90	69	–	–	¶111	71	–	–	116	93	–	–	917	551
1,684	1,312	–	–	1,775	1,601	–	–	2,827	2,440	–	–	10,086	8,240	–	–
–	–	21	15	–	–	19	2	–	–	19	15	–	–	151	87
3,986	3,600	817	558	2,687	2,464	1,044	637	4,027	3,930	828	793	18,935	16,923	5,115	4,348
7,272	6,505 §	5,753	4,994	6,389 ‖	5,947	6,605	5,013	9,158	8,913	10,256	9,935	39,706	36,257	40,371	35,971
	§ 6,605 in the Return.			‖ 6,390 in the Return.		¶ 1,111 in the Return. The *monthly* Returns show that it should be 111.									
424	314	341	535	330	259	263	257	409	435	535	722	1,856	1,717	1,882	2,265
276	341	396	866	429	533	314	297	628	632	866	692	1,891	1,958	2,093	2,389
11	58	3	96	78	50	64	12	151	158	96	65	306	376	190	194
3,239	3,381	2,496	4,909	4,005	3,782	2,680	2,515	5,659	5,668	4,909	4,257	23,960	22,690	16,039	19,560
649	263	1,355	2,084	939	498	257	1,331	628	612	2,084	2,645	4,055	2,761	10,374	11,540
3,663	2,834	2,491	4,655	1,849	1,854	1,939	1,902	3,554	2,977	4,655	4,110	13,964	12,043	14,309	15,137
2,012	1,778	2,048	4,398	2,879	2,853	2,626	2,009	2,906	3,072	4,398	3,440	11,208	10,919	13,311	14,910
130	112	133	271	188	171	193	208	180	210	271	257	886	897	1,641	1,299

X.—COMPARATIVE STATEMENT of the NUMBER of PRISONERS in the ZILLAH and 31st of December 1827 and

	1. Under Sentence of the Courts of Circuit or Nizamut Adawlut.		2. Required to find Security by Order of the Courts of Circuit or Nizamut Adawlut.		3. Sentenced by the Magistrates to Temporary Imprisonment.		4. Required by the Magistrates to find Security.		5. Under Examination before the Magistrates.	
	1827.	1828.	1827.	1828.	1827.	1828.	1827.	1828.	1827.	1828.
Calcutta Division -	1,167	1,234	52	76	1,517	1,445	272	296	260	257
Patna - - -	1,636	1,764	38	51	1,660	1,671	238	295	239	237
Moorshedabad -	1,454	1,500	9	3	1,656	1,760	369	716	497	401
Dacca - - -	1,005	863	48	25	1,530	1,365	193	185	291	213
Lower Provinces -	5,262	5,361	147	155	6,363	6,241	1,072	1,492	1,287	1,108
Bareilly Division -	2,738	3,281	60	69	3,587	3,138	251	311	658	545
Benares - -	2,594	2,612	5	5	1,910	1,822	106	100	339	342
Western Provinces	5,332	5,893	65	74	5,497	4,960	351	421	997	887
TOTAL - - -	10,594	11,254	212	229	11,860	11,201	1,423	1,913	2,284	1,995

CITY GAOLS within each Division of the Provinces under the Presidency of *Bengal*, on the the 31st of December 1828.

6. Committed for Trial before the Courts of Circuit, or under Reference to the Nizamut Adawlut.		Under Sentence, (Cols. 1 & 3.)		Detained for Want of Security, (Cols. 2 & 4.)		Under Examination or awaiting Trial, (Cols. 5 & 6.)		TOTAL.		
1827.	1828.	1827.	1828.	1827.	1828.	1827.	1828.	1827.	1828.	
280	260	2,684	2,679	324	372	540	517	3,548	3,568	Calcutta Division.
330	209	3,296	3,435	276	346	569	446	4,141	4,227	Patna.
463	254	3,110	3,260	378	719	960	655	4,448	4,634	Moorshedabad.
127	152	2,535	2,228	241	210	418	365	3,194	2,803	Dacca.
1,200	875	11,625	11,602	1,219	1,647	2,487	1,983	15,331	15,232	- Lower Provinces.
761	502	6,325	6,419	311	380	1,419	1,047	8,055	7,846	Bareilly Division.
439	488	4,504	4,434	105	115	778	830	5,387	5,379	Benares.
1,200	990	10,829	10,853	416	495	2,197	1,877	13,442	13,225	- Western Provinces.
2,400	1,865	22,454	22,455	1,635	2,142	4,684	3,860	28,773	28,457	- - - TOTAL.

X.—*continued.*—STATEMENT of the NUMBER of PRISONERS in the several ZILLAH and CITY GAOLS

	1. Under Sentence of the Court of Circuit or Nizamut Adawlut.	2. Required to find Security, by Order of Court of Circuit or Nizamut Adawlut.	3. Sentenced by the Magistrates to Temporary Imprisonment.	4. Required by the Magistrates to find Security.	5. Under Examination before the Magistrates.	6. Committed for Trial before the Court of Circuit, or under reference to the Nizamut Adawlut.	Total under Sentence, (Cols. 1 & 3.)	Total confined for Want of Security, (Cols. 2 & 4.)	Under Examination, or awaiting Trial, (Cols 5 & 6.)	TOTAL.
CALCUTTA DIVISION:										
Burdwan	189	20	229	18	23	89	418	38	112	568
Jungle Mehals	72	-	201	-	3	65	273	-	68	341
Midnapore	158	4	168	40	35	44	326	44	79	449
Cuttack	257	-	133	14	41	24	390	14	65	469
Jessore	249	1	109	47	19	6	358	48	25	431
Nuddeah	102	18	155	63	44	1	257	81	45	383
Hooghly	84	22	196	56	30	30	280	78	60	418
24 Pergunnahs	72	10	121	38	35	-	193	48	35	276
Suburbs of Calcutta	51	1	133	20	27	1	184	21	28	233
	1,234	76	1,445	296	257	260	2,679	372	517	3,568
PATNA DIVISION:										
Ramghur	253	-	493	115	24	10	746	115	34	895
Behar	222	37	505	120	73	70	727	157	143	1,027
Tirhoot	354	11	194	31	8	29	548	42	37	627
Sarun	349	2	195	15	117	8	544	17	125	686
Shahabad	117	1	158	-	2	78	275	1	80	356
Patna	469	-	126	14	13	14	595	14	27	636
	1,764	51	1,671	295	237	209	3,435	346	446	4,227
MOORSHEDABAD DIVISION:										
Bhaugulpore	206	-	274	77	53	23	480	77	76	633
Purneah	97	-	142	26	22	18	239	26	40	305
Dinagepore	138	1	350	46	41	16	488	47	57	592
Rungpore	590	-	532	418	110	130	1,122	418	240	1,780
Rajeshahye	128	2	193	126	63	38	321	127	101	549
Beerbhoom	89	-	183	8	41	22	272	8	63	343
Moorshedabad	252	-	86	16	71	7	338	16	78	432
	1,500	3	1,760	716	401	254	3,260	719	655	4,634
DACCA DIVISION:										
Mymensing	102	3	112	6	9	11	214	9	20	243
Sylhet	122	4	174	23	103	34	296	27	137	460
Tipperah	268	4	443	17	23	18	711	21	41	773
Chittagong	63	2	60	27	3	34	123	29	37	189
Backergunge	78	4	215	53	30	32	293	57	62	412
Dacca Jelalpore	46	8	161	7	39	22	207	15	61	283
Dacca	184	-	200	52	6	1	384	52	7	443
	863	25	1,365	185	213	152	2,228	210	365	2,803

under the Presidency of *Bengal*, on the 31st of December 1828, and of the Causes of their Confinement.

	1. Under Sentence of the Court of Circuit or Nizamut Adawlut.	2. Required to find Security, by Order of Court of Circuit or Nizamut Adawlut.	3. Sentenced by the Magistrates to Temporary Imprisonment.	4. Required by the Magistrates to find Security.	5. Under Examination before the Magistrates.	6. Committed for Trial before the Court of Circuit, or under reference to the Nizamut Adawlut.	Under Sentence, (Cols. 1 & 3.)	Confined for Want of Security, (Cols. 2 & 4.)	Under Examination, or awaiting Trial, (Cols. 5 & 6.)	TOTAL.
Bareilly Division:										
Cawnpore - - -	383	1	165	65	40	40	548	66	80	694
Furruckabad - -	563	7	222	34	123	119	785	41	242	1,068
Sirporah - - -	—	—	—	—	—	—	—	—	—	—
Mynpoory - -	274	34	168	11	54	26	442	45	80	567
Etawah - - -	- -	- -	79	23	13	12	73	23	25	127
Belah - - -	- -	- -	41	18	15	16	41	18	31	90
Agra - - -	331	3	363	18	41	20	694	21	61	776
Allyghur - - -	327	8	336	31	3	45	663	39	42	750
Bolundshuhur - -	76	- -	286	8	25	41	362	8	66	436
Meerut - - -	190	- -	203	25	42	31	393	25	73	491
Seharunpore - -	141	5	212	6	- -	34	353	11	34	398
Moozuffunugur - -	75	1	100	12	26	22	175	13	48	236
Moradabad - -	405	5	331	10	14	52	736	15	66	817
Ditto - North Division	17	- -	124	6	34	2	141	6	36	183
Bareilly - - -	405	5	278	25	43	24	683	30	67	780
Pillibheet - -	28	- -	108	13	34	9	136	13	43	192
Shahjehanpore - -	66	- -	122	6	38	9	188	6	47	241
	3,281	69	3,138	311	545	502	6,419	389	1,047	7,846
Benares Division:										
Bundelcund, South Div.	204	- -	84	- -	24	30	288	[illegible]	[illegible]	[illegible]
Ditto - North Div.	175	- -	103	12	38	20	278	[illegible]	[illegible]	[illegible]
Allahabad - -	320	3	259	19	27	82	[illegible]	[illegible]	[illegible]	[illegible]
Futtehpore - -	221	- -	52	- -	139	18	[illegible]	[illegible]	[illegible]	[illegible]
Mirzapore - - -	160	- -	142	6	[illegible]	17	[illegible]	[illegible]	[illegible]	[illegible]
Juanpore - - -	282	- -	185	- -	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Goruckpore - -	382	- -	296	37	44	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Azimghur - - -	157	- -	134	- -	20	4	[illegible]	[illegible]	[illegible]	[illegible]
Benares - - -	324	1	196	36	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Ghazeepore - -	387	1	371	- -	32	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2,612	5	1,822	100	342	488	4,434	115	830	5,379
SUMMARY:										
In the Lower Provinces -	5,361	155	6,241	1,492	1,108	875	11,602	1,647	1,983	15,232
Western ditto -	5,893	74	4,960	421	887	990	10,853	495	1,877	13,225
TOTAL - -	11,254	229	11,201	1,913	1,995	1,865	22,455	2,142	3,860	28,457

XI.—PRISONERS employed on PRIVATE LABOUR, agreeably to the Orders of the SUDDER NIZAMUT ADAWLUT.

ZILLAHS.	Prisoners.	AMOUNT of GAIN.	AMOUNT paid to the PRISONERS.	NET AMOUNT of GAIN.	REMARKS.
Burdwan	158	82 2 –	14 8 3	67 9 9	Rope, cloths, &c.
Jungle Mehals	29	6 13 –	3 6 6	3 6 6	Thread, &c.
Nuddeah	489	55 14 6	– – –	55 14 6	Pounding bricks.
TOTAL	676	144 13 6	17 14 9	126 14 9	
Tirhoot	6,986	194 3 5	97 1 9	97 1 8	Mondahs, chicks, piece goods cloths.
Shahabad	24	32 – –	– – –	32 – –	Rope, mondahs and cloth.
Patna	421	823 6 –	457 15 6	365 6 6	Cloths, morahs and baskets.
TOTAL	7,431	1,049 9 5	555 1 3	494 8 2	
Purneah	65	52 9 –	25 – –	27 9 –	Twine.
Buggorah	43	44 5 6	– – –	44 5 6	Mondah.
Beerbhoom	266	808 13 6	– – –	808 13 6	Thread and cloth, &c.
Moorshedabad	317	– – –	239 3 9	– – –	256 pieces of cloth, and carding and making thread.
TOTAL	691	905 12 –	264 3 9	880 12 –	
Dacca	1,587	254 15 –	– – –	254 15 –	Baskets.

(4.)—MADRAS CIVIL STATEMENTS.

LIST.

I. —Statement of the Number of Original Suits and of Appeals depending at the beginning and end of 1815, and disposed of during that year, in each of the Zillah and subordinate Courts under the Presidency of Madras; also the Amount of Property in Litigation - - - - - - - - - p. 586

II. —Statement of Original Suits and Appeals depending at the beginning and end of 1815, and decided during that year, in the Sudder Adawlut and Provincial Courts - - - - - - - - - - - - - p. 586

III. —Statement to the same effect as No. I. for the year 1828 - - - p. 588

IV. —Statement to the same effect as No. II. for the year 1828 - - p. 590

V. —Statement of the Amount of Property in Litigation, in the Suits depending in the several Zillah Courts, on 1st January 1828 and 1st January 1829, and in the Suits disposed of during that year - - - - - - - p. 591

VI. —Statement of the Number of Appeals from the Decrees of Assistant Judges, Registrars and Native Officers, depending at the beginning and end of 1828, and preferred and disposed of during that year, in each of the Zillah Courts - - - - - - - - - - - - - p. 592

VII. —Abstract Statement of the Number of Appeals depending at the beginning and end of 1828, and disposed of during that year, in the Zillah Courts 594–5

VIII. —Table showing the Number of Suits instituted and decided in the years 1810, 1815, and 1820 and 1825, and depending at the end of each of those years, in the Sudder Adawlut, in the Provincial Courts, and in the Courts of the Zillah Judges, Registers, Sudder Ameens and Moonsiffs, and the average Delay of Judicature in each class of Courts - - - - - - p. 594–5

I.—NUMBER of Original Suits and Appeals depending at the Beginning and End of the Year 1815, and disposed of during that Year.

Before the - - -	ORIGINAL SUITS.															
	Judges (or Assistant Judge).				Registrars.				Native Commissioners.				Total.			
	Depending on 1st January 1815.	Decreed or Dismissed.	Adjusted by Razeenamah.	Depending on 1st January 1816.	Depending on 1st January 1815.	Decreed or Dismissed.	Adjusted by Razeenamah.	Depending on 1st January 1816.	Depending on 1st January 1815.	Decreed or Disuissed.	Adjusted by Razeenamah.	Depending on 1st January 1816.	Depending on 1st January 1815.	Decreed or Dismissed.	Adjusted by Razeenamah.	Depending on 1st January 1816.
Centre Division:																
Bellary - - - - - -	28	45	–	12	64	155	–	36	392	6,426	623	447	484	6,626	623	[illegible]
Chingleput - - - - -	38	130	27	47	32	101	50	37	293	297	173	258	363	528	250	[illegible]
Chittoor - - - - -	85	44	16	86	294	283	95	166	1,538	997	1,070	838	1,917	1,324	1,181	[illegible]
Cuddapah - - - - -	96	63	31	12	77	122	74	55	1,216	633	555	987	1,389	818	660	[illegible]
	247	282	74	157	467	661	219	294	3,439	8,353	2,421	2,530	4,153	9,296	2,714	[illegible]
Northern Division:																
Masulipatam - - - - -	24	49	16	32	52	56	44	97	96	951	837	153	172	1,056	897	[illegible]
Nellore - - - - - -	48	51	22	16	230	103	140	85	–	23	35	57	278	177	197	[illegible]
Guntoor - - - - -	13	4	7	24	35	43	35	25	477	424	431	334	525	471	473	[illegible]
Rajahmundry - - - - -	208	89	54	189	268	115	46	288	767	466	668	1,121	1,243	670	768	[illegible]
Visagapatam - - - - -	26	42	22	26	90	78	62	48	460	314	369	449	576	434	453	[illegible]
Ganjam - - - - - -	25	28	1	14	44	49	4	13	92	133	37	134	161	210	42	[illegible]
	344	263	122	301	719	444	331	556	1,892	2,311	2,377	2,248	2,955	3,018	2,830	[illegible]
Southern Division:																
Trichinopoly - - - - -	32	62	8	32	90	68	8	61	118	285	97	112	240	415	113	[illegible]
Combaconum - - - -	57	44	4	106	} 223	97	19	79	531	633	555	591	894	870	599	[illegible]
Assistant Judge - - -	83	96	21	68											865	[illegible]
Verdachellum - - - -	41	18	7	48	108	63	33	81	956	831	825	945	1,105	912	1,211	[illegible]
Salem - - - - - -	445	38	107	330	} 88	58	23	67	690	938	1,080	748	1,296	1,044	784	[illegible]
Assistant Judge - - -	73	10	1	46												[illegible]
Darapooram - - - - -	18	31	1	15	121	35	2	99	143	479	781	192	282	545	440	[illegible]
Madura - - - - - -	130	77	73	58	} 47	20	14	15	56	378	318	14	350	559	132	[illegible]
Assistant Judge - - -	117	84	35	28									86	193		[illegible]
Tinnevelly - - - - -	22	49	13	24	21	38	25	12	43	106	94	74				[illegible]
	1,018	509	270	755	698	379	124	414	2,537	3,650	3,750	2,676	4,253	4,538	4,144	[illegible]
Western Division:																
Canara - - - - - -	457	846	307	275	126	260	22	563	4,291	205	19	4,403	4,874	1,311	348	[illegible]
Cochin - - - - - -	26	54	10	12	–	–	–	–	–	–	–	–	26	54	10	[illegible]
Seringapatam - - - - -	14	13	–	11	95	213	11	112	–	–	–	–	109	226	11	[illegible]
North Malabar - - - -	120	215	25	209	161	165	26	107	426	490	82	531	707	870	133	[illegible]
South Malabar - - - -	54	355	95	224	} 19	54	5	68	779	2,690	685	470	984	3,293	805	[illegible]
Assistant Judge - - -	132	194	25	225												[illegible]
	803	1,677	462	956	401	692	64	850	5,496	3,385	786	5,404	6,700	5,754	1,312	[illegible]
	2,412	2,731	928	2,169	2,285	2,176	738	2,114	13,364	17,699	9,334	12,858	18,061	22,606	11,000	[illegible]

II.—STATEMENT of Original Suits and Appeals depending at the Beginning and End of 1815, and decided during that Year, in the

	ORIGINAL SUITS.					APPEALS.				
	Depending 1st January 1815.	Decreed or Dismissed.	Adjusted by Razeenamah.	Total disposed of.	Depending 1st January 1816.	Depending 1st January 1815.	Decreed or Dismissed.	Adjusted by Razeenamah.	Total disposed of.	Depending 1st January 1816.
Centre Division - - -	19	14	1	15	12	81	59	2	61	69
Northern " - - -	46	2	–	2	49	217	64	9	73	210
Southern " - - -	11	5	1	6	13	112	59	1	59	150
Western " - - -	9	8	–	8	17	61	46	1	47	90
Total Provincial Courts	85	29	2	31	91	471	228	12	240	449

In each of the Zillah and subordinate Courts under the Presidency of *Madras*; also, the AMOUNT of PROPERTY in LITIGATION in such Suits.

APPEALS. Before the Judge (or Assistant Judge), From the Registrars. Depending 1st January 1815.	Decreed or Dismissed.	Adjusted.	Depending 1st January 1816.	From the Native Commissioners. Depending 1st January 1815.	Decreed or Dismissed.	Adjusted.	Depending 1st January 1816.	TOTAL. Depending 1st January 1815.	Decreed or Dismissed.	Adjusted.	TOTAL.	AMOUNT OF PROPERTY IN LITIGATION. In Suits depending on the 1st of January 1815.	In Suits decided during the Year.	In Suits depending on the 1st of January 1816.	
												Pag^s.	*Pag^s.*	*Pag^s.*	CENTRE DIVISION:
11	17	–	7	37	100	1	25	48	117	1	32	23,200	20,871	10,355	Bellary.
3	14	1	1	2	26	2	–	5	40	3	1	10,858	24,695	6,201	Chingleput.
74	23	2	118	19	114	10	235	93	137	12	353	60,307	40,573	58,171	Chittoor.
33	12	4	35	109	35	10	148	142	47	14	183	27,079	39,850	28,322	Cuddapah.
121	66	7	161	167	275	23	408	288	341	30	569	1,21,444	1,25,989	1,03,049	
															NORTHERN DIVISION:
10	22	2	11	19	66	4	41	29	88	6	52	15,395	89,159	18,391	Masulipatam.
–	–	–	–	–	–	–	–	–	–	–	–	11,552	5,409	7,491	Nellore.
4	3	–	4	10	5	1	7	14	8	1	11	7,733	8,484	10,412	Guntoor.
22	8	30	32	120	5	–	118	142	13	30	150	87,624	26,940	1,10,700	Rajahmundry.
–	13	–	–	9	47	8	17	9	60	8	17	17,706	28,353	18,179	Visagapatam.
10	5	1	20	28	14	–	25	38	19	1	45	9,921	4,756	7,590	Ganjam.
46	51	33	67	186	137	13	208	232	188	46	275	1,49,931	1,62,068	1,72,763	
															SOUTHERN DIVISION:
33	7	–	11	109	35	10	98	122	42	10	109	23,440	16,750	13,780	Trichinopoly.
14	11	–	13	84	58	3	81	167	134	4	145	57,441	17,426	34,736	Combaconum.
3	3	–	3	66	62	1	48								- - Assistant Judge.
11	7	3	14	98	64	13	95	109	71	16	109	29,420	8,929	28,922	Verdachellum.
22	7	2	23	350	23	12	236	455	161	75	356	74,781	25,879	66,024	Salem.
–	8	–	8	73	123	61	89								- - Assistant Judge.
6	2	–	7	28	17	1	33	34	19	1	40	11,495	7,451	11,831	Darapooram.
7	8	1	1	13	8	5	10	26	19	8	15	33,262	45,948	4,716	Madura.
3	3	–	–	3	–	2	4								- - Assistant Judge.
1	6	–	1	2	4	–	–	3	10	–	1	5,763	10,594	5,848	Tinnevelly.
90	62	6	81	826	394	108	694	916	456	114	775	2,35,602	1,32,977	1,64,957	
															WESTERN DIVISION:
2	–	–	19	136	3	6	164	138	3	6	183	1,05,045	14,263	91,437	Canara.
–	–	–	–	–	–	–	–	–	–	–	–	2,704	4,759	661	Cochin.
3	–	–	13	–	–	–	–	3	–	–	13	8,609	3,433	8,528	Seringapatam.
10	8	–	29	183	41	7	160	193	49	7	189	46,683	27,817	34,876	North Malabar.
7	14	1	10	30	90	10	75	37	104	11	85	78,163	32,994	83,104	South Malabar.
															- - Assistant Judge.
22	22	1	71	349	134	23	399	371	156	24	470	2,41,204	83,266	2,18,606	
279	201	47	380	1,528	940	167	1,709	1,807	1,141	214	2,089	7,48,181 11	5,05,333 11	6,59,375 11	*Fractions.*
												7,48,192	5,05,344	6,59,386	

PROVINCIAL COURTS under the Presidency of *Madras*; and also of the APPEALS disposed of by the SUDDER ADAWLUT in the same Year.

AMOUNT OF PROPERTY IN LITIGATION. In Original Suits depending 1st January 1815.	In Original Suits depending 1st January 1816.	In Original Suits decided in 1815.	
Pagodas. 1,76,053	*Pagodas.* 58,451	*Pagodas.* 1,28,918	
4,82,041	4,39,558	1,23,421	
73,535	69,774	191	
77,288	1,13,518	52,060	
2	2	1	Fractions.
8,08,919	6,81,303	3,94,591	
	272,521	121,836	Amount in Sterling.

	Decreed or Dismissed.	Adjusted.	TOTAL.
*SUDDER ADAWLUT - -	21	3	24

* The Returns of the business of the Sudder Adawlut do not contain columns of Suits instituted or depending.

III.—NUMBER of ORIGINAL SUITS depending at the Beginning and End of 1828, and preferred and disposed of during that Year, - - - - - -

Before the - -	JUDGES.							REGISTRARS.							SUDDER AMEENS.							DISTRICT MOONSIFFS.						
	1. Depending 1st January 1828.	2. Instituted during the Year.	3. Decided on the Merits.	4. Dismissed for Default.	5. Adjusted by Razeenamah.	6. Total of Cols. 3, 4 & 5.	7. Remaining 1st January 1829.	1. Depending 1st January 1828.	2. Referred during the Year.	3. Decided on the Merits.	4. Dismissed for Default.	5. Razeenamah.	6. Total of Cols. 3, 4 & 5.	7. Depending 1st January 1829.	1. Depending 1st January 1828.	2. Referred during the Year.	3. Decided on the Merits.	4. Dismissed for Default.	5. Razeenamah.	6. Total of Cols. 3, 4 & 5.	7. Depending 1st January 1829.	1. Depending 1st January 1828.	2. Instituted during the Year.	3. Referred.	4. Decided on the Merits.	5. Dismissed for Default.	6. Razeenamah.	7.	8.
CENTRE DIVISION:																													
Bellary - - -	5	479	41	15	11	67	22	53	72	51	34	14	99	–	156	438	308	122	48	478	114	623	5,294	–	1,673	3,502	92	549	
Chingleput - - -	29	347	12	5	2	19	27	33	11	2	20	6	28	16	138	234	98	105	86	289	83	425	2,881	85	1,235	382	1,087	572	
Chittoor - - -	28	353	29	–	4	33	12	24	33	5	–	8	13	30	121	300	219	11	137	367	71	457	4,183	–	1,812	21	2,302	432	
Cuddapah - - -	33	438	10	7	4	21	40	–	–	–	–	–	–	–	122	707	420	168	79	667	142	741	6,586	1	2,200	2,296	1,416	540	
Ditto - Auxiliary Court	13	67	37	33	12	82	31	–	–	–	–	–	–	–	3	53	21	19	7	47	9	74	1,842	1	713	283	813	1,89	
TOTAL - -	108	1,684	129	60	33	222	132	110	116	58	54	28	140	46	540	1,732	1,066	425	357	1,848	419	2,320	20,786	87	7,633	6,484	5,710	1,87	
NORTHERN DIVISION:																													
Masulipatam, at Rajahmundry - - -	206	1,166	62	10	15	87	150	–	75	24	3	4	31	44	285	1,060	240	213	567	1,020	325	906	2,483	–	1,153	248	867	2,22	
Masulipatam Auxiliary Court - - -	123	127	–	6	13	19	55	–	–	–	–	–	–	–	–	176	53	30	80	163	13	699	2,248	–	672	122	1,049	1,62	
Nellore - - -	25	211	28	14	17	59	38	19	21	13	14	9	36	4	40	101	60	8	51	119	22	412	3,076	17	684	378	1,843	49	
Guntoor - - -	–	58	2	–	1	3	25	–	–	–	–	–	–	–	–	11	1	–	5	6	5	–	810	19	189	108	530	97	
Chicacole - - -	44	732	28	3	9	40	49	49	22	36	1	8	45	10	221	683	401	25	239	665	238	929	4,647	–	2,268	64	1,489	2,85	
TOTAL - -	398	2,294	120	33	55	208	317	68	118	73	18	21	112	58	546	2,031	755	276	942	1,973	603	2,946	13,264	36	4,966	920	5,788	7,19	
SOUTHERN DIVISION:																													
Combaconum - -	22	270	9	5	4	18	26	23	24	12	–	7	19	28	122	225	112	55	108	275	72	580	3,605	1	1,440	420	1,598	2,46	
Salem - - -	24	291	15	5	2	22	95	59	14	6	1	2	9	–	144	250	212	50	28	290	104	781	2,991	2	1,780	509	1,424	2,57	
Ditto - Auxiliary Court	75	259	55	17	1	73	31	–	–	–	–	–	–	–	26	229	189	13	6	208	47	328	2,833	–	1,109	341	997	1,81	
Colligal (Native Judge) -	17	116	70	1	28	99	34	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	233	–	126	29	59	31	
Madura - - -	20	199	9	5	11	25	28	14	–	2	1	–	3	–	26	206	75	45	49	169	34	262	2,654	–	1,145	165	1,293	1,65	
Ditto - Auxiliary Court	14	120	24	15	10	49	13	–	–	–	–	–	–	–	13	72	36	15	18	69	16	34	1,073	–	309	200	474	32	
TOTAL - -	172	1,255	182	37	66	286	227	96	38	20	2	9	31	28	331	982	624	178	209	1,011	273	1,985	13,389	3	5,909	1,664	5,843	7,54	
WESTERN DIVISION:																													
Canara - - -	429	378	42	13	–	55	116	31	4	–	–	–	–	20	188	1,112	156	17	38	211	604	3,191	3,154	20	1,488	412	415	2,83	
Ditto - Auxiliary Court	24	135	37	2	4	43	15	–	–	–	–	–	–	–	180	100	156	66	19	241	39	1,784	2,743	1	1,522	150	331	1,49	
Malabar - - -	287	584	142	1	11	154	312	–	–	–	–	–	–	–	353	405	329	137	105	571	187	1,386	4,770	–	2,558	57	1,176	3,27	
Ditto - Auxiliary Court	42	214	31	1	11	43	25	–	–	–	–	–	–	–	32	270	152	15	25	192	92	838	3,410	–	1,849	80	536	2,46	
TOTAL - -	782	1,311	252	17	26	295	468	31	4	–	–	–	–	20	753	1,887	793	235	187	1,215	922	7,199	14,077	21	7,417	699	2,458	10,15	
	1,460	6,544	683	158	170	1,011	1,144	305	276	151	74	58	283	152	2,170	6,632	3,238	1,114	1,695	6,047	2,217	14,450	61,516	147	26,925	9,767	19,739	29,50	

- - - - - - - - - in each of the Zillah and Subordinate Courts of each Division under the Presidency of *Madras*.

DISTRICT PUNCHAYETS.							VILLAGE MOONSIFFS.							VILLAGE PUNCHAYETS.							TOTAL.							
1. Depending 1st January 1828.	2. Referred.	3. Decided on Merits.	4. Dismissed for Default.	5. Razeenamah.	6. Total of Cols. 3, 4 & 5.	7. Depending 1st January 1829.	1. Depending 1st January 1828.	2. Instituted.	3. Decided on Merits.	4. Dismissed for Default.	5. Razeenamah.	6. Total of Cols. 3, 4 & 5.	7. Depending 1st January 1829.	1. Depending 1st January 1828.	2. Referred.	3. Decided on Merits.	4. Dismissed for Default.	5. Razeenamah.	6. Total of Cols. 3, 4 & 5.	7. Depending 1st January 1829.	Depending 1st January 1828.	Instituted during the Year.	Decided on the Merits.	Dismissed for Default.	Adjusted by Razeenamah.	Total disposed of.	Depending 1st January 1829.	
																												CENTRE DIVISION:
1	1	–	1	–	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	838	5,773	2,073	3,674	165	5,912	792	Bellary.
3	1	3	3	1	7	–	–	126	47	9	69	125	–	–	1	1	–	–	1	–	628	3,354	1,398	524	1,251	3,173	809	Chingleput.
–	–	–	–	–	–	–	112	211	147	12	48	207	116	–	–	–	–	–	–	–	742	4,747	2,212	44	2,499	4,755	734	Chittoor.
2	–	–	–	–	–	2	44	65	68	8	10	86	21	1	2	1	–	–	1	2	943	7,089	2,699	2,477	1,509	6,685	1,348	Cuddapah.
–	–	–	–	–	–	–	–	4	1	3	–	–	–	–	–	–	–	–	–	–	90	1,913	772	338	832	1,942	61	Ditto - Auxiliary Court.
6	2	3	4	1	8	2	156	406	263	32	127	418	137	1	3	2	–	–	2	2	3,241	22,876	9,154	7,057	6,256	22,467	3,654	- - TOTAL.
																												NORTHERN DIVISION:
–	–	–	–	–	–	–	180	24	17	7	–	24	180	5	–	–	–	–	–	5	1,582	3,673	1,496	481	1,453	3,430	1,825	Masulipatam, at Rajahmundry.
2	–	–	–	–	–	2	3	–	–	–	–	–	3	–	–	1	–	–	3	–	827	2,375	725	156	1,142	2,023	1,179	Masulipatam Auxiliary Court.
1	3	–	1	1	2	2	121	83	40	12	21	73	–	1	3	2	–	2	3	–	619	3,379	826	427	1,944	3,197	387	Nellore.
–	–	–	–	–	–	–	–	176	77	31	58	166	141	–	1	1	–	–	1	1	–	1,044	270	139	684	993	463	Guntoor.
4	–	–	–	1	1	3	33	5	3	–	3	6	32	–	1	–	–	–	–	–	1,280	5,384	2,736	93	1,749	4,578	2,039	Chicacole.
7	3	–	1	2	3	7	337	288	137	50	82	269	356	6	5	4	–	2	7	6	4,308	15,846	6,053	1,296	6,872	14,221	5,891	- - TOTAL.
																												SOUTHERN DIVISION:
1	6	–	1	5	6	1	185	338	266	80	58	404	119	–	–	–	–	–	–	–	933	4,213	1,839	561	1,780	4,180	974	Combaconum.
3	2	–	2	–	2	3	–	75	45	9	18	72	–	–	3	–	–	1	–	–	1,011	3,357	2,060	576	1,475	4,111	1,261	Salem.
–	–	–	–	–	–	–	–	37	28	–	9	37	–	–	–	–	–	–	–	–	429	3,129	1,381	371	1,013	2,765	756	Ditto - Auxiliary Court.
–	–	–	–	–	–	–	18	326	330	–	–	330	14	–	–	–	–	–	–	–	35	675	526	30	87	643	103	Colligal (Native Judge).
–	1	1	–	–	1	–	20	84	52	32	1	85	19	–	–	1	–	–	–	–	342	2,937	1,284	248	1,854	2,886	394	Madura.
–	–	–	–	–	–	–	155	773	294	390	116	800	128	7	12	6	2	5	14	5	223	1,966	670	622	621	1,913	288	Ditto - Auxiliary Court.
4	9	1	3	5	9	4	378	1,633	1,015	511	202	1,728	280	7	15	7	2	6	14	5	2,973	16,277	7,760	2,408	6,330	16,498	3,776	- - TOTAL.
																												WESTERN DIVISION:
3	–	–	2	–	2	1	939	627	282	320	18	620	474	6	3	3	2	–	5	4	4,787	4,159	1,971	766	471	3,208	5,256	Canara.
–	–	–	–	–	–	–	1,188	310	111	243	23	377	920	3	–	–	5	–	5	–	3,179	3,188	1,826	466	357	2,649	3,483	Ditto - Auxiliary Court.
1	–	–	–	–	1	1	255	321	217	33	36	286	290	–	–	–	–	–	–	–	2,282	5,675	3,246	228	1,329	4,803	3,154	Malabar.
–	–	–	–	–	–	–	817	374	299	76	31	406	784	–	1	1	–	–	1	–	1,729	3,998	2,332	172	603	3,107	2,684	Ditto - Auxiliary Court.
4	–	–	2	–	3	2	3,199	1,632	909	672	108	1,689	2,468	9	4	4	7	–	11	4	11,977	17,020	9,375	1,632	2,760	13,767	14,577	- - TOTAL.
21	14	4	10	9	23	15	4,070	3,959	2,324	1,265	519	4,104	3,241	23	27	17	9	8	34	17	22,499	72,019	32,342	12,395	22,218	66,957	27,898	

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

IV.—STATEMENT of ORIGINAL SUITS and APPEALS depending at the Beginning and End of 1828, and decided during that Year, in the SUDDER ADAWLUT and PROVINCIAL COURTS, under the Presidency of *Madras*.

PROVINCIAL COURTS.	ORIGINAL SUITS.						
	Depending 1st January 1828.	Instituted during the Year.	Decided on the Merits.	Dismissed for Default.	Adjusted by Razeenamah.	Total, disposed of.	Remaining 1st January 1829.
CENTRE DIVISION:							
Regular	13	2	4	2	1	7	8
NORTHERN DIVISION:							
Regular	32	20	6	–	4	10	39
SOUTHERN DIVISION:							
Regular	11	6	6	1	–	7	38
WESTERN DIVISION:							
Regular	7	1	1	2	–	3	9
TOTAL PROVINCIAL COURTS — Regular	63	29	17	5	5	27	94

PROVINCIAL COURTS.	APPEALS.								
	Depending 1st January 1828.	Instituted during the Year.	Reversed.	Confirmed.	Dismissed for Default.	Razeenamahs.	Referred to the Zillah Judges.	Total.	Depending 1st January 1829.
CENTRE DIVISION:									
Regular	59	27	5	10	6	2	–	23	61
Special	–	11	8	7	–	–	–	15	–
NORTHERN DIVISION:									
Regular	36	47	2	45	–	2	3	52	42
Special	–	–	2	–	–	–	–	2	–
SOUTHERN DIVISION:									
Regular	32	14	2	5	1	1	–	9	10
Special	–	6	2	3	–	–	–	5	–
WESTERN DIVISION:									
Regular	1	12	–	3	1	–	3	6	5
Special	–	–	–	–	–	–	–	–	–
TOTAL PROVINCIAL COURTS — Regular	–	100	9	63	8	5	6	90	–
TOTAL PROVINCIAL COURTS — Special	–	17	12	10	–	–	–	22	–
	128	117	21	73	8	5	6	112	118

	APPEALS.			
	Depending on 1st January 1828.	Decreed or Dismissed.	Adjusted by Razeenamah.	Depending 1st January 1829.
SUDDER ADAWLUT	25	8*	–	30

* It does not appear clear, whether this is the number decided during the *whole year*, or during the *latter half* of it. There is no return of the Appeals preferred during the year.

V.—STATEMENT of the AMOUNT of PROPERTY in LITIGATION in the CIVIL SUITS, including APPEALS, depending on the 1st of January 1828 and 1st of January 1829, in each of the ZILLAH COURTS under the Presidency of *Madras*; and of the AMOUNT in LITIGATION in the ORIGINAL SUITS disposed of in each of those Courts during the Year 1828; also, the TOTAL AMOUNT of the APPEALS disposed of in that Year.

	AMOUNT of Original Suits and Appeals depending 1st January 1828.	AMOUNT of Original Suits and Appeals depending 1st January 1829.	AMOUNT of Original Suits disposed of in 1828.
CENTRE DIVISION:	Rup. A. P.	Rup. A. P.	Rup. A. P.
Bellary	40,575 12 7	29,437 6 4	1,50,216 7 11
Chingleput	98,103 9 6	1,10,484 3 –	1,86,679 14 8
Chittoor	94,863 11 5	68,862 – 10	2,92,170 12 3
Cuddapah	45,699 – 6	58,273 7 9	1,28,509 7 –
Ditto - Auxiliary Court	2,992 – 6	15,119 14 –	37,324 6 6
	2,82,234 2 6	2,82,176 15 11	7,94,901 – 4
NORTHERN DIVISION:			
Masulipatam, at Rajahmundry	1,27,577 11 3	1,31,468 8 5	1,61,838 15 11
Masulipatam Auxiliary Court	76,754 6 3	1,02,448 3 10	1,11,081 9 9
Nellore	51,480 14 4	42,614 10 6	1,90,799 – 11
Guntoor	- - -	3,57,604 8 1	40,035 2 7
Chicacole	1,75,786 1 –	1,73,374 7 3	2,99,040 1 3
	4,31,599 – 10	8,07,510 6 1	8,02,794 14 5
SOUTHERN DIVISION:			
Combaconum	1,01,495 – 9	1,08,444 3 7	2,08,130 15 1
Salem	75,117 15 3	76,354 8 1	93,627 11 1
Ditto - Auxiliary Court	24,481 13 5	38,577 12 10	76,663 5 4
Colligal (Native Judge)	1,672 15 –	11,341 14 –	15,595 4 5
Madura	60,356 5 8	52,505 7 9	1,84,997 1 5
Ditto - Auxiliary Court	5,380 6 3	17,030 5 5	67,572 14 –
	2,68,504 8 4	3,04,254 3 8	6,47,587 3 4
WESTERN DIVISION:			
Canara	5,05,225 6 4	4,67,792 14 3	2,72,440 6 6
Ditto - Auxiliary Court	1,40,327 4 10	1,56,389 6 11	1,57,943 – 10
Malabar	2,73,031 6 6	3,06,009 15 6	2,59,124 12 7
Ditto - Auxiliary Court	95,900 11 –	1,44,599 12 –	1,75,812 12 1
	10,14,484 12 8	10,74,792 – 8	8,65,321 – –
TOTAL	19,96,822 8 4	24,68,733 10 4	31,10,604 2 1
AMOUNT of APPEALS in regular Suits disposed of in all the Courts in 1828			1,42,361 11 1
AMOUNT of ORIGINAL SUITS and APPEALS disposed of			32,52,965 13 2

VI.—STATEMENT of the NUMBER of APPEALS from the DECREES of ASSISTANT JUDGES, REGISTRARS and NATIVE OFFICERS, depending at the - -

BEFORE THE JUDGES.

	From the Registrars.								From the Sudder Ameens.								From the District Moonsiffs.							
	Depending 1st January 1828.	Referred.	Decree Reversed.	Decree Confirmed.	Dismissed for Default.	Adjusted by Razenamah.	Total disposed of.	Depending 1st January 1829.	Depending 1st January 1828.	Referred.	Decree Reversed.	Decree Confirmed.	Dismissed for Default.	Razenamah.	Total.	Depending 1st January 1829.	Depending 1st January 1828.	Referred.	Decree Reversed.	Decree Confirmed.	Dismissed for Default.	Razenamah.	Total.	Depending 1st January 1829.
CENTRE DIVISION:																								
Bellary	1	7	3	5	–	–	8	–	3	18	6	13	–	–	19	2	10	30	20	19	–	1	40	–
Chingleput	17	7	1	–	–	–	1	23	26	56	3	6	4	–	13	26	12	61	1	6	1	1	9	14
Chittoor	1	2	1	–	–	–	1	2	15	75	6	16	–	1	23	24	13	75	–	1	–	1	2	5
Cuddapah	34	2	8	10	1	5	24	13	33	76	6	11	6	2	25	84	15	20	3	10	–	2	15	7
Ditto - Auxiliary Court	–	–	–	–	–	–	–	–	1	5	3	1	1	–	5	1	1	7	2	1	–	–	3	5
	53	18	13	15	1	5	34	38	72	230	24	47	11	3	85	137	51	193	26	37	1	5	69	31
NORTHERN DIVISION:																								
Masulipatam, at Rajahmundry	5	5	–	1	–	–	1	8	39	34	8	10	–	4	22	49	59	56	7	5	1	3	16	89
Masulipatam Auxiliary Court	1	–	1	–	–	–	1	–	2	10	1	–	–	1	2	10	99	76	23	61	1	5	90	83
Nellore	1	13	6	3	–	2	11	3	1	26	4	6	–	1	11	7	9	74	14	4	1	1	20	12
Guntoor	–	–	–	–	–	–	–	–	–	1	–	–	–	–	–	1	–	33	1	–	–	–	1	11
Chicacole	47	21	9	13	–	1	23	45	83	96	6	8	1	6	21	137	90	84	–	–	1	2	3	27
	54	39	16	17	–	3	36	56	125	167	19	24	1	12	56	204	257	323	45	70	4	11	130	222
SOUTHERN DIVISION:																								
Combaconum	20	24	–	4	–	2	6	40	24	31	5	4	1	1	11	28	–	128	–	–	–	–	–	8
Salem	25	5	4	17	1	–	22	8	73	39	13	25	3	–	41	74	64	67	2	5	2	2	11	54
Ditto - Auxiliary Court	–	–	–	–	–	–	–	–	9	24	7	7	–	–	14	19	27	14	4	15	2	1	22	6
Colligal (Native Judge)	–	–	–	–	–	–	–	–	–	2	1	1	–	–	2	–	–	8	–	1	–	2	3	3
Madura	2	5	–	5	–	–	5	–	10	12	8	13	–	–	21	7	17	70	9	16	2	2	29	8
Ditto - Auxiliary Court	–	–	–	–	–	–	–	–	6	25	7	18	–	1	26	5	3	20	2	2	–	–	4	4
	47	34	4	26	1	2	33	48	122	133	41	68	4	2	115	133	111	307	17	39	6	7	69	83
WESTERN DIVISION:																								
Canara	80	13	12	5	2	–	19	68	210	46	7	9	9	–	25	228	103	134	–	–	4	–	1	10
Ditto - Auxiliary Court	–	–	–	–	–	–	–	–	–	23	2	8	–	–	10	13	–	49	–	–	–	–	–	–
Malabar	31	2	–	2	–	1	3	30	129	76	–	1	–	2	3	184	3	240	–	–	–	2	2	3
Ditto - Auxiliary Court	–	–	–	–	–	–	–	–	24	31	5	22	–	–	27	49	7	90	–	–	–	1	1	–
	111	15	12	7	2	1	22	98	363	176	14	40	9	2	65	474	113	513	–	–	4	3	4	13

	From Assistant or Native Judges.								From Collectors (in Summary Suits).								From Village Moonsiffs.							
Chingleput	–	–	–	–	1	–	1	–	1	–	–	–	1	–	1	–	–	–	–	–	–	–	–	–
Cuddapah	1	9	–	–	–	–	–	10	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Nellore	–	–	–	–	–	–	–	–	–	6	–	1	5	–	6	–	–	–	–	–	–	–	–	–
Madura	–	–	–	–	–	–	–	2	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Salem, from Assistant Judge	–	4	2	1	–	–	3	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Ditto - Native - ditto	–	2	–	1	–	–	1	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Canara	–	–	–	–	–	–	–	2	1	–	–	–	–	–	–	5	–	–	–	–	–	–	–	–
	1	15	2	2	1	–	5	16	2	6	–	1	6	–	7	5	–	–	–	–	–	–	–	–

- Beginning and End of 1828, and preferred and disposed of during that Year, in each of the ZILLAH COURTS under the Presidency of *Madras*.

BEFORE THE REGISTRARS.																BEFORE THE SUDDER AMEENS.								
From the Sudder Ameens.								From the District Moonsiffs.								From the District Moonsiffs.								
Depending 1st January 1828.	Referred.	Decree Reversed.	Decree Confirmed.	Dismissed for Default.	Adjusted by Razenamah.	TOTAL.	Depending 1st January 1829.	Depending 1st January 1828.	Referred.	Decree Reversed.	Decree Confirmed.	Dismissed for Default.	Razenamah.	TOTAL.	Depending 1st January 1829.	Depending 1st January 1828.	Referred.	Decree Reversed.	Decree Confirmed.	Dismissed for Default.	Razenamah.	TOTAL.	Depending 1st January 1829.	
																								CENTRE DIVISION:
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	- Bellary.
119	37	2	10	-	-	12	144	1	2	-	1	1	-	2	1	44	68	56	43	1	3	103	9	- Chingleput.
2	58	10	20	-	1	31	14	1	4	-	1	-	-	1	3	8	76	27	42	1	4	74	13	- Chittoor.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	15	7	6	1	2	16	-	- Cuddapah.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	- Ditto - Auxiliary Court.
121	95	12	30	-	1	43	158	2	6	-	2	1	-	3	4	55	159	90	91	3	9	193	22	
																								NORTHERN DIVISION:
-	2	-	1	-	-	1	1	-	9	-	2	-	-	2	7	-	1	-	1	-	-	1	-	- Masulipatam, at Rajahmundry.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	2	2	-	-	-	2	-	- Masulipatam Auxiliary Court.
6	9	7	2	3	-	12	3	4	11	4	4	7	-	15	-	6	40	26	12	6	1	45	1	- Nellore.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	21	5	6	-	-	11	10	- Guntoor.
-	30	2	6	-	-	8	13	9	-	-	3	-	1	4	-	1	149	45	58	-	9	112	38	- Chicacole.
6	41	9	9	3	-	21	17	13	20	4	9	7	1	21	7	7	213	78	77	6	10	171	49	
																								SOUTHERN DIVISION:
2	17	-	2	1	-	3	16	10	12	2	4	-	-	6	16	35	108	43	68	-	3	114	29	- Combaconum.
10	5	2	4	-	1	7	-	15	1	1	2	-	1	4	-	24	77	51	39	3	4	97	4	- Salem.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	5	11	5	10	-	-	15	1	- Ditto - Auxiliary Court.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	- Colligal (Native Judge).
6	-	-	-	-	-	-	-	7	-	-	-	-	-	-	-	4	67	16	38	2	2	58	3	- Madura.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	16	5	9	3	1	18	-	- Ditto - Auxiliary Court.
18	22	2	6	1	1	10	16	32	13	3	6	-	1	10	16	71	279	120	164	8	10	302	37	
																								WESTERN DIVISION:
232	10	-	-	-	-	-	134	-	-	-	-	-	-	-	-	17	323	41	65	1	6	113	131	- Canara.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	29	49	23	36	-	1	60	18	- Ditto - Auxiliary Court.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	117	238	82	131	11	8	232	123	- Malabar.
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	3	99	35	34	1	4	74	25	- Ditto - Auxiliary Court.
232	10	23	45	4	2	74	134	47	39	7	17	8	2	34	27	166	719	181	266	13	19	479	297	

VII.—STATEMENT of the NUMBER of APPEALS depending at the Beginning and End of 1828, and preferred

From the Decrees of - - -	EUROPEAN OFFICERS.							
	Depending 1st January 1828.	Preferred during the Year.	Decrees reversed.	Ditto confirmed.	Dismissed for Default.	Razenamahs.	TOTAL disposed of.	Depending 1st January 1829.
CENTRE DIVISION - - -	54	27	13	15	2	5	35	48
NORTHERN „ - - -	54	39	16	17	- -	3	36	56
SOUTHERN „ - - -	47	38	6	27	1	2	36	51
WESTERN „ - - -	111	15	12	7	2	1	22	100
	266	119	47	66	5	11	129	255

Note.—This Paper is an Abstract of the results of the Statement No. VI. It will be observed, on a close discrepancies between them, the ultimate result of which is, an excess of 27 in the two last columns of the the volumipous Returns from which these Tables have been prepared.

VIII.—TABLE showing the NUMBER of SUITS instituted and decided (within the Year) in the SUDDER MOONSIFFS, and the Number depending at the End of the Year, with the average Delay

	SUDDER ADAWLUT.				PROVINCIAL COURTS.				JUDGES' COURTS.			
	Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.
1805 - - -	-	-	-	-	No Statements have been received.					-	-	-
				Months.				Months.				Months.
1810 - - -	-	-	-	-	-	-	-	-	-	3,956	3,912	11 1/2
1815 - - -	-	24	-	-	225	271	540	24	5,113	5,014	4,362	10 1/2
1820 - - -	11	12	27	27	217	322	372	14	2,623	2,173	2,960	16 1/4
1825 - - -	9	13	14	12	130	109	262	28	827	1,259	1,367	13
830 - - -	-	-	-	-	No Statements have been received.					-	-	-

and disposed of during that Year, in the ZILLAH COURTS of each DIVISION under the Presidency of *Madras*.

NATIVE OFFICERS.								TOTAL.							
Depending 1st January 1828.	Preferred.	Decrees reversed.	Ditto confirmed.	Dismissed for Default.	Razenamahs.	Total disposed of.	Depending 1st January 1829.	Depending 1st January 1828.	Preferred.	Decrees reversed.	Ditto confirmed.	Dismissed for Default.	Razenamahs.	Total disposed of.	Depending 1st January 1829.
301	423	152	207	16	18	393	352	355	450	165	222	18	23	428	400
408	490	171	189	21	34	399	499	462	529	187	206	21	37	435	555
354	437	185	284	19	21	507	286	401	475	191	311	20	23	543	337
774	689	195	307	24	24	549	919	885	704	207	314	26	25	571	1,019
1,837	2,039	703	987	80	97	1,848	2,056	2,103	2,158	750	1,053	85	108	1,977	2,311

comparison of the *two first* with the *two last* columns of each division of the Table, that there are several division headed "Total," over the two first. These discrepancies have probably arisen in the process of copying

ADAWLUT and PROVINCIAL COURTS, and in the COURTS of the ZILLAH JUDGES, SUDDER AMEENS and of Judicature in all the Courts, during the Years 1805, 1810, 1815, 1820, and 1825.

REGISTERS.				NATIVE COMMISSIONERS.							
Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.	Instituted.	Decided.	Depending.	Delay.
–	–	–	–	No Statements have been received.							
			Months.				Months.				Months.
–	3,242	4,039	14 ½	–	22,674	8,648	4 ½				
2,743	2,914	2,114	8 ½	30,643	30,687	12,858	5				
				SUDDER AMEENS.				MOONSIFFS.			
1,559	1,452	861	7	5,491	5,409	1,748	3 ½	50,009	49,228	20,028	4 ¼
2,257	1,814	1,293	8 ½	7,581	7,160	2,749	4 ¼	55,700	57,832	19,188	3 ¾
–	–	–	–	No Statements have been received.							

(5.)—MADRAS CRIMINAL STATEMENTS.

LIST.

I. —STATEMENT of the Number of Trials in which, and of Prisoners on whom, Sentence was passed by the Foujdaree Adawlut in 1815, and the Nature of the Sentences - - - - - - - - - - - p. 597

II. —ABSTRACT of the Proceedings of the Criminal Courts and Police in the Year 1817; also, the Extent and Population (in 1822) of the Districts - p. 598

III. —A similar STATEMENT for 1828 - - - - - - - - - p. 600

IV. —STATEMENT of the Operations of the Foujdaree Adawlut, from 1st January to 30th June 1829 - - - - - - - - - - - p. 602

V. —STATEMENT of the Operations of the Courts of Circuit in the same Period; showing the Number of Acquittals, Punishments of different kinds, and References to the Foujdaree Adawlut, in each of the Four Divisions, p. 604

VI. —A similar STATEMENT, exhibiting the Acquittals, Punishments, &c. for each Crime or Misdemeanor - - - - - - - - - p. 606

VII. —STATEMENT of the Operations of the Criminal Courts in each of the Zillahs during the same Period - - - - - - - - - p. 608

VIII. —STATEMENT of the Operations of the Criminal Courts during the same Period, exhibiting the Acquittals, Punishments, &c. for each Crime and Misdemeanor - - - - - - - - - - - - - p. 610

IX. —STATEMENT of the Proceedings of the Village Police, District Police and Magistracy, of each Zillah, 1st January to 30th June 1829, in Reference to Petty Offences - - - - - - - - - - - p. 612

X. —A similar STATEMENT, distinguishing the Offences, but not the Districts, p. 614

XI. —STATEMENT of the Proceedings of the District Police and Magistracy in each Zillah, in Reference to Crimes and Misdemeanors - - - p. 616

XII. —A similar STATEMENT, distinguishing the Offences, but not the Districts, p. 618

I.—GENERAL ABSTRACT of Criminal Trials on which Sentences were passed by the Foujdarry Adalut, from 1st January to 31st December 1815.

Divisions.	Zillahs.	Number of Trials.				Total.	Number of Prisoners on whom Sentence has been passed.									Total.
		1812.	1813.	1814.	1815.		1812.	1813.	1814.	1815.	Totals. Death.	Transportation.	Imprisonment.	Released on Security.	Released.	
Centre Division	Chittoor	1	—	—	11	12	27	—	—	14	1	2	2	2	34	41
	Bellary	—	—	1	11	12	—	—	1	14	6	—	2	—	7	15
	Cuddapah	5	—	14	6	25	19	—	32	8	1	15	10	4	29	59
	Chingleput	—	—	4	—	4	—	—	10	—	—	8	1	1	—	10
Northern Division	Masulipatam	—	—	1	—	1	—	—	2	—	2	—	—	—	—	2
	Nellore	—	—	2	1	3	—	—	13	4	—	—	—	—	17	17
	Guntoor	—	—	—	1	1	—	—	—	2	—	—	—	—	2	2
	Rajahmundry	—	—	6	3	9	—	—	18	8	1	3	1	—	21	26
	Vizagapatam	—	—	2	4	6	—	—	29	4	—	—	9	20	4	33
	Ganjam	—	—	4	—	4	—	—	9	—	—	—	—	1	8	9
Southern Division	Trichinopoly	—	—	3	—	3	—	—	3	—	—	—	1	—	2	3
	Combaconum	—	—	4	1	5	—	—	10	1	5	—	1	—	5	11
	Verdachellum	—	—	—	1	1	—	—	—	1	—	—	—	—	1	1
	Salem	—	—	14	8	22	—	—	53	17	2	15	1	1	51	70
	Darapooram	—	2	4	—	6	—	30	5	—	2	1	21	—	17	41
	Madura	—	—	4	1	5	—	—	13	1	2	1	1	2	8	14
	Tinnevelly	—	1	4	—	5	—	1	5	—	1	—	2	—	3	6
Western Division	North Malabar	—	—	1	2	3	—	—	5	3	2	1	—	—	5	8
	South Malabar	—	—	14	3	17	—	—	39	9	13	12	5	2	16	48
	Canara	—	—	1	3	4	—	—	6	3	1	—	—	4	4	9
	Cochin	—	—	1	—	1	—	—	1	—	—	—	—	—	1	1
	Seringapatam	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
	Total	6	3	84	56	149	46	37	254	89	39	58	57	37	235	426

II.—ABSTRACT of the Proceedings of the several Criminal Courts

ZILLAHS.	EXTENT in Square Miles.	POPULATION in 1822.	MAGISTRATES.							
			Offences committed.	Persons apprehended.	Acquitted.	Convicted.	Punishments: Fined.	Imprisoned.	Flogged.	Remit to the Criminal Judge.
Centre Division:										
Bellary	12,980	927,857	664	588	76	190	23	98	69	322
Chingleput	3,020	363,129	1,709	3,969	1,811	1,611	708	778	125	567
Chittoor	–	892,292	924	1,711	996	266	114	79	73	449
Cuddapah	12,970	1,094,460	1,356	3,032	1,908	603	332	171	100	521
			4,653	9,300	4,791	2,670	1,177	1,126	367	1,859
Northern Division:										
Masulipatam	5,000	529,849	423	1,449	773	175	68	41	66	500
Guntoor	4,960	454,754								
Nellore	7,930	439,467	955	2,400	1,679	501	339	155	7	210
Rajahmundry	6,050	738,308	445	1,288	900	106	71	22	13	282
Vizagapatam	15,300	772,570	749	857	521	300	163	134	3	36
Ganjam	6,400	332,015	94	258	52	21	2	5	14	185
			2,666	6,252	3,925	1,103	643	357	103	1,224
Southern Division:										
Combaconum	7,000	1,382,645	493	1,729	1,345	303	135	114	54	81
Darapooram	–	–	372	723	67	236	29	43	164	420
Madura	16,400	1,353,153	339	1,678	1,006	546	239	244	63	126
Salem	8,200	1,075,985	676	1,403	599	652	370	147	135	132
Tinnevelly	5,700	564,957	288	1,223	642	135	36	64	35	446
Trichinopoly	–	–	347	1,330	937	144	87	46	11	249
Verdachellum	–	–	1,377	3,481	2,954	407	224	52	131	152
			3,892	11,567	7,550	2,423	1,120	710	593	1,606
Western Division:										
Canara	7,720	657,594	656	1,355	407	279	46	101	132	669
Malabar, North	6,060	907,575	1,741	4,329	843	645	368	130	147	2,841
Malabar, South										
Seringapatam	–	31,612	156	267	118	57	15	39	3	90
			2,553	5,951	1,368	981	429	270	282	3,600
			13,764	33,070	17,634	7,177	3,369	2,463	1,345	8,291

- - - - - and POLICE, under the Presidency of *Madras*, in the Year 1817.

CRIMINAL JUDGES.						COURTS OF CIRCUIT.							FOUJDARRY ADAWLUT.				
								Punishments:							Punishments:		
Acquitted.	Convicted.	Fined.	Imprisoned.	Flogged.	Committed for Trial before the Court of Circuit.	Acquitted.	Convicted.	Fined.	Imprisoned.	Flogged.	Banished.	Referred to the Foujdarry Adawlut.	Acquitted.	Convicted.	Death.	Transportation.	Imprisonment.
138	46	2	26	18	136	77	63	–	58	5	–	34	5	16	7	4	5
301	130	68	55	7	20	12	4	–	4	–	–	11	3	3	1	2	–
242	94	8	86	–	199	35	83	–	70	13	–	32	6	22	1	5	16
244	65	5	50	10	127	64	78	–	78	–	–	26	11	12	2	2	8
925	335	83	227	35	482	188	228	–	210	18	–	103	25	53	11	13	29
523	15	–	12	3	133	48	64	–	63	1	–	27	6	11	–	9	2
42	65	7	52	6	98	48	28	–	28	–	–	4	13	6	1	–	5
133	45	13	19	13	149	81	52	–	52	–	–	6	17	3	3	–	–
33	12	4	5	3	35	4	10	–	10	–	–	1	–	1	–	–	1
110	49	36	3	10	105	33	11	–	11	–	–	3	2	1	1	–	–
847	186	60	91	35	520	214	165	–	164	1	–	41	38	22	5	9	8
141	69	12	31	26	71	14	72	–	65	7	–	3	1	16	4	12	–
133	134	11	112	11	69	21	36	1	27	8	–	13	–	13	3	10	–
104	37	1	18	18	111	48	56	–	56	–	–	–	–	–	–	–	–
147	82	8	45	29	79	7	83	–	36	47	–	7	5	–	–	–	–
169	76	10	64	–	81	25	49	–	19	30	–	2	–	2	1	–	1
229	137	81	43	13	31	21	14	–	14	–	–	1	–	1	1	–	–
135	38	12	22	4	34	10	18	–	17	1	–	–	–	7	7	–	–
1,058	573	135	335	101	476	146	328	1	234	93	–	26	6	39	16	22	1
336	178	12	125	41	234	51	109	–	101	–	8	23	10	9	8	–	1
508	294	159	88	47	182	72	85	–	49	36	–	49	9	42	4	1	37
1,306	318	55	153	110	91	67	102	3	64	35	–	22	11	17	14	1	2
11	73	11	60	2	5	9	2	–	–	2	–	–	–	–	–	–	–
2,161	863	237	426	200	512	199	298	3	214	73	8	94	30	68	26	2	40
4,991	1,957	515	1,079	371	1,990	747	1,019	4	822	185	8	264	99	182	48	46	78

III.—ABSTRACT of the PROCEEDINGS of the several CRIMINAL COURTS and POLICE, - - - - - -

	EXTENT in Square Miles.	POPULATION in 1822.	POLICE OFFICERS AND - - - - - -											
			Number of Crimes of every Description committed.	Number of Persons supposed to have been concerned.	Number of Persons apprehended by the Police.	Number of Cases disposed of.			Number of Persons acquitted.			Number of Persons convicted.		
						By Police Officers.	By Magistrates.	TOTAL.	By Police Officers.	By Magistrates.	TOTAL.	By Police Officers.	By Magistrates.	TOTAL.
CENTRE DIVISION:														
Bellary - - - -	12,980	927,857	934	2,249	939	350	68	418	102	153	255	198	28	
Chingleput - - - -	3,020	363,129	394	1,335	1,250	304	32	336	792	48	840	173	41	
Verdachellum - - -	–	455,020	274	951	531	87	19	106	4	40	44	130	6	
Chittoor - - - -	–	892,292	873	2,128	1,938	477	139	616	566	270	836	324	59	
Cuddapah - - - - } Ditto - Auxiliary Court - }	12,970	1,094,460	1,583	3,592	1,389	870	156	1,026	108	336	444	260	54	
TOTAL - - -	- -	- -	4,058	10,255	6,047	2,088	414	2,502	1,572	847	2,419	1,085	188	
NORTHERN DIVISION:														
Masulipatam - - -	5,000	529,849	271	1,871	494	147	31	178	28	64	92	248	26	
Rajahmundry - - -	6,050	738,308	484	1,322	429	117	32	149	133	28	161	65	38	
Nellore - - - -	7,930	439,467	226	547	604	156	26	182	93	53	146	234	13	
Guntoor - - - -	4,960	454,754	332	876	503	212	21	233	117	8	125	176	25	
Visagapatam } Chicacole - { Ganjam - }	15,300	772,570	367	1,165	1,124	263	64	327	318	159	477	414	73	
	6,400	332,015	420	3,622	526	118	65	183	13	57	70	157	121	
TOTAL - - -	45,640	3,296,963	2,100	9,403	3,680	1,013	239	1,252	702	369	1,071	1,294	296	
SOUTHERN DIVISION:														
Combaconum - - -	7,000	1,382,645	1,068	3,958	2,152	533	137	670	203	125	328	1,066	267	
Trichinopoly - - -	3,000	481,292	256	957	435	69	97	166	57	198	255	62	49	
Salem - - - *	8,200	1,075,985	855	2,118	1,663	583	78	661	237	116	353	549	93	
Coimbatoor - - -	8,280	638,199	983	1,463	981	499	49	548	87	20	107	386	43	
*Colligaul - - - -	[included in Salem]		–	–	48	–	–	–	–	55	55	–	38	
Madura - - - -	16,400	1,353,153	739	2,903	1,898	490	192	682	114	519	633	953	136	
Tinnevelly - - - -	5,700	564,957	488	3,510	1,869	407	35	442	1,227	72	1,299	154	18	
TOTAL - - -	- -	- -	4,389	14,909	9,046	2,581	588	3,167	1,925	1,105	3,030	3,170	644	
WESTERN DIVISION:														
Canara - - - - } Ditto - Auxiliary Court - }	7,720	657,594	1,633	3,320	2,720	681	609	1,290	264	965	1,229	752	429	
												182	83	
Malabar - - - - } Ditto - Auxiliary Court - }	6,060	907,575	866	2,434	2,165	346	104	450	871	276	1,147			
TOTAL - - -	- -	- -	2,499	5,754	4,885	1,027	713	1,740	1,135	1,232	2,376	934	512	
GRAND TOTAL - - -	- -	- -	13,046	40,321	23,658	6,709	1,954	8,657	5,334	3,552	8,896	6,483	1,840	

Note.—The Returns for the year 1828, and for preceding years, do not specify the nature of the offences committed. There are

. . . . . under the Presidency of *Madras*, in the Year 1828.

MAGISTRATES.					CRIMINAL JUDGES.							COURTS OF CIRCUIT.						FOUJDARRY ADAWLUT.					
Punishments inflicted								Punishments inflicted.						Punishments inflicted.						Punishments inflicted.			
By the District Police Officers.		By the Magistrates.																					
Persons imprisoned.	Flogged.	Imprisoned.	Flogged.	Persons sent by the District Police Officers and the Magistrate to the Criminal Judge.	Persons received.	Acquitted.	Convicted.	Fined.	Imprisoned.	Flogged.	Committed for Trial before the Court of Circuit.	Acquitted.	Convicted.	Fined.	Imprisoned.	Flogged.	Referred to Foujdarry Adawlut.	Acquitted.	Convicted.	Death.	Transportation.	Imprisonment.	Flogging.
31	167	28	–	458	434	289	92	–	90	2	85	27	34	–	34	–	19	29	8	5	2	1	–
50	123	27	14	196	622	244	113	3	106	4	276	159	63	–	63	–	43	39	15	–	8	7	–
11	119	2	4	351																			
211	113	54	5	719	668	419	163	11	152	–	88	57	34	–	34	–	15	10	14	2	–	12	–
152	108	47	7	631	530	250	58	5	51	2	209	73	50	–	50	–	39	34	28	7	13	8	–
					119	62	26	2	24	–	31	16	9	–	9	–	3	2	–	–	–	–	–
455	630	158	30	2,355	2,373	1,264	452	21	423	8	689	332	190	–	190	–	119	114	65	14	23	28	–
192	56	23	3	128	96	43	9	–	6	3	40	9	36	–	36	–	5	–	–	–	–	–	–
6	59	13	25	165	207	118	25	2	23	–	71	60	1	–	1	–	13	11	3	–	–	3	–
172	62	6	7	211	327	167	77	21	52	4	95	40	30	–	30	–	9	2	3	1	–	–	–
110	66	16	9	177																			
387	27	58	15	160	342	191	24	2	22	–	183	109	32	–	32	–	25	4	–	–	1	1	–
124	33	94	27	178																			
991	303	210	86	1,019	972	519	135	25	103	7	389	218	99	–	99	–	52	17	6	1	1	4	–
824	242	240	27	491	524	316	67	4	62	1	123	50	36	–	36	–	18	4	19	5	1	13	–
21	41	41	8	69																			
323	226	87	6	668	866	533	174	28	119	27	149	53	33	–	33	–	19	1	2	–	2	–	–
100	286	20	23	445	255	133	69	12	56	1	40	8	13	–	13	–	10	–	1	–	–	1	–
–	–	38	–	32	60	11	19	4	15	–	30	24	6	–	6	–	2	–	–	–	–	–	–
706	247	125	11	176	303	152	57	5	50	2	85	66	37	–	37	–	9	7	3	–	1	2	–
59	95	12	6	385	295	178	22	9	13	–	86	79	3	–	3	–	–	–	–	–	–	–	–
2033	1,137	563	81	2,266	2,303	1,323	408	62	315	31	513	280	128	–	128	–	58	12	25	5	4	16	–
626	126	345	84	302	148	75	46	3	43	–	27	26	33	–	33	–	3	7	3	–	1	2	–
					177	126	44	14	30	–	70	61	20	–	20	–	–	1	–	–	–	–	–
13	169	57	26	753	579	287	123	14	106	3	140	45	36	–	36	–	4	13	8	5	2	1	–
					206	95	52	4	48	–	63	32	19	–	19	–	21	13	4	1	–	3	–
639	295	402	110	1,055	1,110	583	265	35	227	3	300	164	108	–	108	–	28	34	15	6	3	6	–
3118	2,365	1,333	307	6,695	6,758	3,689	1,260	143	1,068	49	1,891	994	525	–	525	–	257	177	111	26	31	54	–

Very full Returns for the *first half year only* of 1829, in which the offences are specified.

IV.—STATEMENT of the Operations of the Foujdaree Adawlut, - - - - - - -

1. DESIGNATION of CRIMES and MISDEMEANORS.	2. Number of Trials not disposed of at the Date of the last Report.		3. Number of Trials received during this Half Year.		4. TOTAL of Columns 2 and 3.		5. Number of Trials disposed of by the Foujdaree Adawlut within the Half Year.		6. Number of Persons acquitted by the Foujdaree Adawlut.			7.	8. Punishments inflicted by the Foujdaree Adawlut.												
									A.	B.	C.		D.	E.	F.	G.	H.	I.	K.	L.	M.	N.	O.	P.	Q.
	Number of Trials.	Number of Persons.	Number of Trials.	Number of Persons.	Number of Trials.	Number of Persons.	Number of Trials.	Number of Persons.	Released unconditionally.	Number of Persons entered in Column (A.) against whom the accusation appeared to be wilfully false and malicious.	Ordered to be released on Security.	Number of Persons convicted and sentenced to Punishment by the Foujdaree Adawlut.	Death.	Flogged and Transported.	Transported without Flogging.	Flogged and Imprisoned for Life.	Imprisoned for Life without Flogging.	Flogged and Imprisoned for more than 14 Years.	Imprisoned for more than 14 Years without Flogging.	Flogged & Imprisoned for more than 7, and not more than 14 Years.	Imprisoned for more than 7, and not more than 14 Years, without Flogging.	Flogged and Imprisoned for 7 Years and under.	Imprisoned for 7 Years and under without Flogging.	Fined and Imprisoned.	Fined not Discharged.
Murder	18	48	27	35	45	83*	28	58‡	14	3	15	25	3	–	4	–	–	–	–	–	1	4	13	–	–
Culpable Homicide	–	–	1	5	1	5	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Robbery and Murder	5	16	3	15	8	31	7	30	25	18	2	3	2	–	–	–	1	–	–	–	–	–	–	–	–
Gang Robbery	5	32	9	35	14	67	9	43	21	2	11	11	–	3	–	–	–	–	–	4	1	1	2	–	–
Robbery by a single Individual	1	1	–	–	1	1	1	1	–	–	–	1	–	1	–	–	–	–	–	–	–	–	–	–	–
Housebreaking by Day	–	–	1	1	1	1	1	1	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Ditto by Night	2	4	1	1	3	5	2	4	–	–	3	1	–	–	–	–	–	–	–	–	–	–	1	–	–
Theft	2	2	4	11	6	13	5	9	8	–	–	1	–	–	–	–	1	–	–	–	–	–	–	–	–
Receiving Stolen Goods	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Arson	1	1	1	1	2	2	1	1	1	1	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Sodomy	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Rape	2	5	–	–	2	†5	2	4	–	–	–	4	–	–	–	–	–	–	–	–	–	3	1	–	–
Adultery	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Procuring Abortion	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Forgery	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Perjury	1	2	–	–	1	2	1	2	–	–	–	2	–	–	–	–	–	–	–	–	–	–	2	–	–
Subornation of Perjury or of Forgery	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Abuse (serious) of Authority by Police Officers	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Resistance to Legal Process	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Returning from Transportation	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Escaping from Custody	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	1	–	–	–
Maiming and Wounding	1	1	2	3	3	4	1	1	–	–	–	1	–	–	–	–	–	–	–	–	–	–	–	–	–
Revenue Laws (breaches of certain)	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	9	–	–
Attempting to break Gaol	1	9	–	–	1	9	1	9	–	–	–	9	–	–	–	–	–	–	–	–	–	–	28	–	–
TOTAL	39	121	49	107	88	228	59	163	70	24	31	58	5	4	4	–	2	–	–	4	2	9	28	–	–

* 5 Prisoners died. † 1 Prisoner died. ‡ 4 Prisoners Insane.

from the 1st of January to the 30th of June 1829.

9. Number of Trials entered in Column 6, which were disposed of under Section II. Regulation I, of 1818.		10. Number of Trials entered in Column 9, wherein the Futwa of Acquittal was founded on Exceptions to the Competency of the Witnesses.		11. Number of Trials entered in Column 9, wherein the Futwa of Acquittal was founded on the insufficiency of the Evidence given.		12. Punishments inflicted in the Cases entered in Column 9.														13. Number of Trials received, but not disposed of at the close of this Report.	
						S.	T.	U.	V.	W.	X.	Y.	Z.	a.	b.	c.	d.	e.	f.		
Number of Trials.	Number of Persons.	Number of Trials.	Number of Persons.	Number of Trials.	Number of Persons.	Death.	Flogged and Transported.	Transported without Flogging.	Flogged and Imprisoned for Life.	Imprisoned for Life without Flogging.	Flogged and Imprisoned for more than 14 Years.	Imprisoned for more than 14 Years without Flogging.	Flogged & Imprisoned for more than 7, and not more than 14 Years.	Imprisoned for more than 7, and not more than 14 Years, without Flogging.	Flogged and Imprisoned for 7 Years and under.	Imprisoned for 7 Years and under without Flogging.	Fined and Imprisoned.	Fined and Discharged.	Flogged and Discharged.	Number of Trials.	Number of Persons.
3	13	–	–	3	13	–	–	2	–	–	–	–	–	–	–	11	–	–	–	17	20
–	1	–	–	–	1	–	–	–	–	–	–	–	–	–	–	1	–	–	–	1	5
1	2	–	–	1	2	2	–	–	–	–	–	–	–	–	–	–	–	–	–	1	1
2	2	1	1	1	1	–	1	–	–	–	–	–	–	–	–	1	–	–	–	5	24
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	1	1
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	1	4
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	1	1
1	2	–	–	–	–	–	–	–	–	–	–	–	–	–	2	–	–	–	–	–	–
1	2	–	–	1	2	–	–	–	–	–	–	–	–	–	–	2	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

V.—STATEMENT of the OPERATIONS of the COURTS OF CIRCUIT from 1st January to of different Kinds, and REFERENCES to the FOUJDAREE ADAWLUT,

1.	2.	3.	4. Number of Persons acquitted by the Court of Circuit.			5.
			A.	B.	C.	
	Number of Cases.	Number of Persons committed for Trial.	Released unconditionally.	Number of Persons entered in the Column A. against whom the Accusation appeared to be wilfully false and malicious.	Ordered to be released on Security.	Number of Persons convicted and sentenced to Punishment by the Court of Circuit.
Centre Division - -	98	*277	81	6	15	74
Northern Division - -	54	101	24	–	12	31
Southern Division - -	81	†273	104	15	35	92
Western Division - -	66	139	69	21	7	29
TOTAL - -	299	790	278	42	69	226

* 1 Died.

† 8 Prisoners returned to the Criminal Judge.

30th June 1829; showing the NUMBER of ACQUITTALS, CONVICTIONS, PUNISHMENTS IN EACH OF THE FOUR DIVISIONS.

6. Punishments inflicted by the Court of Circuit.							7. Number of Persons whose Trials were referred to the Foujdaree Adawlut.		8. Number of Trials entered in Column 7, wherein the Futwa was concurred in by the Court of Circuit, but the nature of the Offence made the Trial of necessity referrible.	9. Number of Trials entered in Column 7 referred, because the Court of Circuit did not approve of the Futwa.	10. Number of Trials postponed to the next Sessions.	
D.	E.	F.	G.	H.	I.	K.						
Flogged and imprisoned for a term exceeding 7 Years.	Flogged and imprisoned for a term not exceeding 7 Years.	Imprisoned for 7 Years and upwards, without flogging.	Imprisoned for 7 Years and under, without flogging.	Fined and imprisoned.	Flogged and discharged.	Fined and discharged.	Number of Trials.	Number of Persons.			Number of Trials.	Number of Persons.
13	16	6	39	–	–	–	25	78	9	16	7	28
–	–	21	10	–	–	–	5	13	3	2	6	21
4	7	12	68	1	–	–	9	23	4	5	6	11
3	4	4	18	–	–	–	16	26	13	3	6	8
20	27	43	135	1	–	–	55	140	29	26	25	68

VI.—STATEMENT of the OPERATIONS of the COURTS of CIRCUIT, from the 1st January to 30th June 1829; FOUJDAREE ADAWLUT, for

1. DESIGNATION OF CRIMES and MISDEMEANORS.	2. Number of Cases of each Crime.	3. Number of Persons committed for Trial for each Offence.	4. Number of Persons acquitted by the Court of Circuit. A. Released unconditionally.	B. Number of Persons entered in the Column A. against whom the Accusation appeared to be wilfully false and malicious.	C. Ordered to be released on Security.	5. Number of Persons convicted and sentenced to Punishment by the Court of Circuit.
Murder	44	70	26	9	2	1
Culpable Homicide	7	12*	3	1	–	–
Robbery and Murder	8	18	1	–	–	–
Gang Robbery	100	317	98	18	34	77
Robbery by a single Individual	4	4	2	–	1	1
Housebreaking by Day	2	5	4	–	–	–
Ditto by Night	43	103	23	1	7	64
Theft	16	21	6	–	2	11
Receiving stolen Goods	8	42	17	–	3	13
Arson	8	12	7	6	–	3
Sodomy	–	–	–	–	–	–
Rape	3	3	2	1	–	1
Adultery	2	4	1	–	–	3
Procuring Abortion	2	6	5	–	–	1
Forgery	3	5	5	–	–	–
Perjury	5	10	8	–	–	2
Subornation of Perjury or of Forgery	–	–	–	–	–	–
Abuse (serious) of Authority by Police Officers	–	–	–	–	–	–
Resistance to lega Process	–	–	–	–	–	–
Returning from Transportation	–	–	–	–	–	–
Escaping from Custody	–	–	–	–	–	–
Maiming and Wounding	26	43	12	2	8	17
Revenue Laws (Breaches of certain)	1	4	4	4	–	–
Accidental Homicide	1	1	1	–	–	–
Violent Assault	7	87	47	–	12	28
Coin (Offences relating to)	2	3	–	–	–	3
Embezzlement	3	5	–	–	–	–
Cattle-stealing	1	4	4	–	–	–
Conspiracy	1	8†	–	–	–	–
Poisoning	1	1	1	–	–	–
Secret Delivery and Exposure of a Bastard Child	1	2	1	–	–	1
GRAND TOTAL	299	790	278	42	69	226

* 1 Prisoner died.

† 8 Prisoners returned to the Criminal Judge.

showing the NUMBER of ACQUITTALS, CONVICTIONS, PUNISHMENTS of different Kinds, and REFERENCES to the EACH PARTICULAR OFFENCE.

6. Punishments inflicted by the Court of Circuit.							7. Number of Persons whose Trials were referred to the Foujdaree Adawlut.		8.	9.	10. Number of Trials postponed to the next Sessions.	
D.	E.	F.	G.	H.	I.	K.						
Flogged and imprisoned for a term exceeding 7 Years.	Flogged and imprisoned for a term not exceeding 7 Years.	Imprisoned for 7 Years and upwards, without flogging.	Imprisoned for 7 Years and under, without flogging.	Fined and imprisoned.	Flogged and discharged.	Fined and discharged.	Number of Trials.	Number of Persons.	Number of Trials entered in Column 7, wherein the Futwa was concurred in by the Court of Circuit, but the Nature of the Offence made the Trial of necessity referrible.	Number of Trials entered in Column 7, referred, because the Court of Circuit did not approve of the Futwa.	Number of Trials.	Number of Persons.
–	–	1	–	–	–	–	23	29	16	7	6	12
–	–	–	–	–	–	–	2	6	–	2	1	2
–	–	–	–	–	–	–	6	16	3	3	1	1
19	3	38	17	–	–	–	13	61	5	8	11	47
–	1	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	1	1	–	1	–	–
–	19	4	41	–	–	–	4	9	1	3	–	–
–	3	–	11	–	–	–	1	2	–	1	–	–
–	–	–	10	–	–	–	–	9	–	–	–	–
–	–	–	3	–	–	–	1	1	1	–	1	1
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	1	–	–	–	–	–	–	–	–	–
–	–	–	3	–	–	–	–	–	–	–	–	–
–	–	–	1	–	–	–	–	–	–	–	–	–
–	–	–	2	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
1	1	–	15	–	–	–	4	6	3	1	2	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	27	1	–	–	–	–	–	–	–	–
–	–	–	3	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	3	5
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	–	–	–	–	–	–	–	–	–	–
–	–	–	1	–	–	–	–	–	–	–	–	–
20	27	43	135	1	–	–	55	140	29	26	25	68

Released	278
Ditto on Security	69
Convicted and punished	226
Referred	140
Postponed	68
	781
Died and returned	9
	790

VII.—STATEMENT of the Operations of the Criminal Courts in each of the Zillahs,

1.	2. Number of Persons whose Cases were not disposed of by the Criminal Court at the close of the last Report.		3. Number brought before the Criminal Court, charged with Crimes and Misdemeanors committed before the said period.		4. Number brought before the Criminal Court, for Crimes and Misdemeanors committed within the said period.		5. Total of Columns 2, 3 and 4.	
	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.
Bellary	–	–	19	53	65	148	84	201
Canara	–	–	36	63	57	133	93	196
Ditto Auxiliary Court	–	–	35	65	61	125	96	190
Chingleput	4	37	18	62	44	99	66	198*
Chicacole	2	11	9	14	56	150	67	175
Chittoor	11	28	41	117	73	193	125	338
Combaconum	11	37	19	47	56	200	86	284
Cuddapah	11	33	89	315	92	277	192	625
Ditto Auxiliary Court	–	–	8	23	22	63	30	86
Guntoor	1	1	15	25	41	82	57	108†
Madura	5	20	15	50	35	122	55	192
Ditto Auxiliary Court	–	–	3	12	32	106	35	118
Malabar	16	47	3	3	82	167	101	217
Ditto Auxiliary Court	12	24	18	30	53	98	83	152
Masulipatam and Rajahmundry	–	–	5	9	37	124	42	133
Ditto Auxiliary Court	4	17	1	2	8	20	13	39
Nellore	–	–	9	17	44	125	53	142
Salem	11	20	172	522	145	479	328	1,021
Ditto Auxiliary Court	4	17	9	40	64	122	77	179‡
Collegal (Native Judge)	–	–	6	11	10	19	16	30
Grand Total	92	292	530	1,480	1,077	2,852	1,699	4,624

* Of these, one person died, and one was sent to Magistrate.
† Of these, six persons were sent to Guntoor.
‡ Of these, three persons died.

	Excess.	Deficiency.
Canara Auxiliary Court	–	65
Cuddapah	–	319
Malabar	43	–
Salem	–	11
Salem Auxiliary Court	2	–
	45	395
		45
Deficiency		350

- - - from the 1st January to the 30th June 1829, (not distinguishing the different Offences.)

6. Number of Persons acquitted by the Criminal Court in Cases determinable by it.				7.	8. Punishments inflicted by the Criminal Court.					9.	10. Committed for Trial before the Court of Circuit.		11. Number of Persons whose Cases were not disposed of by the Criminal Court at the close of the Report.	
A.	B.	C.	D.		E.	F.	G.	H.	I.					
Released unconditionally.	Number of Persons entered in the column A. against whom the Accusation appeared to be wilfully false and malicious.	Released on Security.	Detained on demand of Security.	Number Convicted and Punished.	Imprisoned.	Fined.	Flogged.	Both Imprisoned and Fined.	Both Imprisoned and Flogged.	Released for want of Evidence, in Cases punishable by the Court of Circuit.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.
42	1	10	12	35	34	–	–	–	1	60	10	38	5	4
45	–	23	4	52	48	1	–	3	–	29	19	41	2	2
10	3	3	2	47	15	31	1	–	–	15	11	20	9	28
59	–	–	8	28	24	4	–	–	–	51	8	30	8	20
31	3	11	6	20	9	2	–	–	9	23	24	47	6	37
71	3	24	4	28	19	3	–	–	6	59	28	82	28	70
53	–	–	2	87	56	–	–	22	9	46	24	68	9	28
116	4	11	12	27	15	–	–	4	8	2	30	84	15	54
27	–	11	1	41	–	1	–	–	40	2	2	4	–	–
23	–	–	–	26	10	–	3	–	13	21	17	30	4	8
36	–	8	6	52	35	11	1	2	3	33	13	44	3	13
21	5	1	–	9	3	2	–	–	4	19	14	62	2	6
60	–	13	9	37	21	8	–	3	5	51	23	47	17	43
37	3	4	6	39	24	1	–	–	14	24	17	27	6	15
32	–	10	5	5	5	–	–	–	–	52	11	28	1	1
2	–	–	2	9	7	–	–	–	2	12	4	12	1	2
27	–	1	1	24	21	–	–	2	1	21	24	62	–	–
237	4	6	141	300‖	90	43	37	22	146	134	63	181	11	11
17	–	16	2	47	14	2	4	2	25	28	13	53	12	15
6	–	–	–	5	–	1	–	1	3	12	5	7	–	–
952	26	152	223	918	450	110	46	61	289	694	360	967	139	357

‖ 38 Deficiency.

Released	952
Released on Security	152
Detained on Security	223
Convicted	918
Released in the cases punishable by the Court of Circuit	694
Committed	967
Under Examination	357
Died and Sent	11
	4,274
Deficiency	350
	4,624

VIII.—STATEMENT of the OPERATIONS of the CRIMINAL COURTS, from 1st January to 30th June 1829, exhibiting the

1. DESIGNATION of CRIMES and MISDEMEANORS.	2. Number of Persons whose Cases were not disposed of by the Criminal Court, at the close of the last Report.		3. Number brought before the Criminal Court, charged with Crimes and Misdemeanors committed before the said period.		4. Number brought before the Criminal Court, for Crimes and Misdemeanors committed within the said period.		5. TOTAL of Columns 2, 3 & 4.		6. Number of Persons Acquitted by the Criminal Court, in Cases determinable by it.			
									A.	B.	C.	D.
	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Released unconditionally.	Number of Persons entered in the Column A. against whom the Accusation appeared to be wholly false and malicious.	Released on Security.	Discharged on Account
Murder	6	17	24	51	56	139	86	207	11	-	8	11
Culpable Homicide	2	6	9	17	14	60	25	83	9	-	5	4
Robbery and Murder	1	2	7	49	13	99	21	150	5	-	1	9
Gang Robbery	20	80	71	296	152	187	243	963	37	1	35	21
Robbery by a single Individual	2	2	6	5	34	29	42	36	4	-	3	2
House-breaking by Day	-	1	8	15	11	14	19	30	11	-	1	1
Ditto by Night	5	22	76	177	158	377	239	576	118	-	17	166
Theft	24	65	164	313	275	553	463	931	235	14	31	370
Receiving Stolen Goods	5	27	39	172	80	243	124	442	171	2	22	73
Arson	3	8	7	17	28	42	38	67	-	-	9	1
Sodomy	-	-	1	1	2	2	3	3	2	-	2	-
Rape	-	-	6	20	8	10	14	30	1	-	-	-
Adultery	1	2	-	-	1	3	2	5	2	-	1	1
Procuring Abortion	1	1	2	7	6	13	9	21	3	-	1	-
Forgery	-	-	10	22	10	20	20	42	-	-	-	-
Perjury	-	-	6	19	12	22	18	41	-	-	-	-
Subornation of Perjury or of Forgery	-	-	3	3	2	2	5	5	9	-	-	5
Abuse (serious) of authority by Police Officers	1	1	4	8	3	9	8	18	9	-	-	3
Resistance to legal Process	1	3	2	4	3	7	6	14	-	-	-	-
Returning from Transportation	-	-	1	1	1	1	2	2	-	-	-	-
Escaping from Custody	2	7	8	8	3	3	13	18	2	-	-	15
Maiming and Wounding	15	43	25	67	84	257	124	367	122	6	19	100
Revenue Laws (Breaches of certain)	-	-	10	30	27	42	37	72	37	-	1	31
Accidental Homicide	-	-	1	1	-	-	1	1	-	-	-	-
Bribery	-	-	1	1	3	7	4	8	7	-	-	-
Forcing another to dip his hand in boiling glue	-	-	-	-	1	5	1	5	5	-	-	-
Compelling to submit to the Trial by Ordeal	-	-	-	-	2	6	2	6	4	-	-	-
Not duly delivering Letters	-	-	-	-	1	1	1	1	1	-	-	-
Contempt of Court	-	-	-	-	1	1	1	1	-	-	-	-
Neglect of duty	-	-	1	2	4	4	5	6	4	-	1	2
Fraud	-	-	5	7	4	10	9	17	7	-	-	-
Administering Poison	-	-	4	5	-	-	4	5	-	-	-	-
Killing Cattle	-	-	3	10	2	9	5	19	11	-	-	-
Embezzlement	1	3	1	1	-	-	2	4	1	-	-	-
Affrays	2	2	18	103	50	226	70	331	98	3	3	96
Extortion	-	-	-	-	6	2	6	2	-	-	-	-
Abduction and Kidnapping Children	-	-	1	2	2	6	3	8	-	-	-	-
For destroying Trees	-	-	-	-	1	1	1	1	-	-	-	-
Coin (Offences relating to)	-	-	1	1	6	7	7	8	1	-	-	-
Abuse	-	-	-	-	1	1	1	1	1	-	-	-
Attempt to Rob	-	-	-	-	1	2	1	2	-	-	-	-
Attempt to Murder	-	-	1	2	2	2	3	4	1	-	1	-
Allowing a Prisoner to escape	-	-	1	3	-	-	1	3	3	-	-	-
Harbouring Thieves	-	-	-	-	1	1	1	1	-	-	-	-
Obtaining Money under false pretences	-	-	2	3	-	-	2	3	3	-	-	-
Forcibly obtaining documents	-	-	-	-	1	1	1	1	1	-	-	-
Forcibly taking away Property	-	-	-	-	1	1	1	1	1	-	-	-
Attempting to sell a Slave belonging to another	-	-	-	-	1	1	1	1	-	-	-	-
Robbery and Rape	-	-	-	-	1	4	1	4	11	-	-	-
Compounding Felony	-	-	-	7	-	13	-	20	-	-	-	-
Attempt at Theft	-	-	-	-	2	2	2	2	-	-	4	-
Sorcery	-	-	1	2	-	-	1	2	4	-	-	-
Aiding in various Crimes	-	-	-	28	-	5	-	33		26	152	950
GRAND TOTAL	92	292	530	1,480	1,077	2,852	1,699	4,624	952			

ACQUITTALS, CONVICTIONS, PUNISHMENTS, COMMITTALS for TRIAL before the COURT of CIRCUIT, &c. for EACH PARTICULAR OFFENCE.

7.	8. Punishments inflicted by the Criminal Court.					9.	10.		11.		DIFFERENCE from Column No. 5.	
	E.	F.	G.	H.	I.		Committed for Trial before the Court of Circuit.		Number of Persons whose Cases were not disposed of by the Criminal Court at the close of this Report.			
Number Convicted and Punished.	Imprisoned.	Fined.	Flogged.	Both imprisoned and fined.	Both imprisoned and flogged.	Released for want of Evidence, in Cases punishable by the Court of Circuit.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Excess.	Deficiency.
-	-	-	-	-	-	72	46	96	6	16	7	-
9	9	-	-	-	-	35	5	16	1	1	- - -	8
-	-	-	-	-	-	63	15	68	1	4	- - -	6
21	16	3	-	-	-	261	113	375	23	133	2 p. died, 6 p. sent to Guntoor	81
18	10	-	2	-	6	2	6	15	4	3	—	-
7	4	-	1	-	2	-	1	2	1	1	- - -	3
166	72	-	6	-	89	49	46	96	20	42	2 p. died -	49
370	155	32	33	1	185	37	34	77	28	49	- - -	76
73	41	25	4	-	4	37	12	34	9	18	1 p. sent to magte	74
1	1	-	-	-	-	26	15	18	2	2	- - -	7
-	-	-	-	-	-	1	-	-	-	-	—	-
-	-	-	-	-	-	21	4	4	-	-	- - -	2
-	-	-	-	-	-	-	2	5	-	-	—	-
1	1	-	-	-	-	13	2	4	-	-	—	-
-	-	-	-	-	-	15	5	13	3	5	- - -	3
-	-	-	-	-	-	6	12	23	2	6	- - -	6
-	-	-	-	-	-	-	1	1	1	1	- - -	2
5	-	4	-	1	-	2	-	-	1	1	- - -	1
3	1	2	-	-	-	-	-	-	1	2	—	-
-	-	-	-	-	-	-	2	2	-	-	—	-
15	13	-	-	-	2	1	-	-	1	1	1	-
100	42	22	-	36	-	13	18	44	16	39	- - -	30
31	21	11	-	1	-	-	-	-	-	-	- - -	3
-	-	-	-	-	-	-	1	1	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	- - -	1
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	-	-	-	1	2	—	-
1	-	-	-	-	-	-	-	-	-	-	—	-
1	-	1	-	-	-	-	-	-	-	-	—	-
22	-	-	-	1	-	-	-	-	-	-	—	-
1	3	6	-	-	-	-	-	-	-	-	13	-
2	1	-	-	-	-	-	4	8	-	-	4	-
-	2	-	-	-	-	-	-	-	-	-	—	-
71	58	4	-	21	1	18	1	3	1	1	1	-
-	-	-	-	-	-	-	8	36	10	24	- - -	25
-	-	-	-	-	-	-	-	-	6	2	—	-
-	-	-	-	-	-	4	2	4	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	3	2	3	1	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	-	1	2	-	-	—	-
-	-	-	-	-	-	2	1	1	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	1	-	-	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	-	-	-	-	-	—	-
-	-	-	-	-	-	4	-	-	-	-	- - -	9
-	-	-	-	-	-	-	1	1	-	-	—	-
-	-	-	-	-	-	2	-	-	-	-	—	-
918	450	110	46	61	289	694	360	967	139	357	36	386
												36
											Deficiency - - -	350

Released - - - -	952	
Ditto on Security - -	152	
Detained on Security - -	223	
Convicted - - - -	918	
Released in Cases punishable by the Court of Circuit -	694	
Committed - - - -	967	
Under Examination - -	357	
Died and sent - - -	11	
	4,274	
Deficiency - -	350	
		4,624

Imprisoned - - - -	450	
Fined - - - - -	110	
Flogged - - - - -	46	
Imprisoned and Fined - -	61	
Ditto - and Flogged - -	289	
	956	
Deduct Excess - - -	38	
Total Convicted - - -	918	

IX.—GENERAL STATEMENT of Petty Offences before the Village Police, - - -

	VILLAGE POLICE.					DISTRICT - - - - - - -						
	1. Number of Persons brought before Heads of Village Police, for Offences punishable by them during the above Period.	2. Number acquitted or dismissed.	3. Number convicted and punished.	4. Confined in the Village Choultry.	4. Confined in the Stocks.	5. Number of Persons punishable by the District Police whose Cases were not disposed of at the date of the last Report.	6. Number of Persons brought before the Heads of District Police for Offences punishable by them, with or without reference to the Magistrate, during the above Period.	7. Total of Columns 5 & 6.	8. Number acquitted.	9. Number included in Column 8, against whom the Accusation appeared to be wilfully false and malicious.	10. Number convicted and punished without reference to the Magistrate.	11. Number convicted and punished after reference to the Magistrate.
Bellary - - -	22	–	22	18	4	1	550	551	45	–	496	7
Canara - - -	57	6	51	18	33	35	2,561	2,596	1,233	50	865	86
Chingleput - -	2	–	2	–	2	87	956	1,043	586	–	421	2
Chittoor - -	4	–	4	4	–	26	2,377	2,403	1,229	324	788	8
Combaconum -	–	–	–	–	–	118	1,501	1,619	234	31	1,161	71
Coimbatore - -	–	–	–	–	–	–	1,271	1,271	371	32	816	82
Cuddapah - -	12	2	10	9	1	84	2,870	2,954	1,982	284	678	63
Ganjam - -	–	–	–	–	–	147	1,696	1,843	1,507	–	336	–
Guntoor - -	143	111	32	14	18	285	3,595	3,880	2,945	7	473	73
Madura - -	–	–	–	–	–	228	2,783	3,011	1,328	68	1,453	178
Malabar - -	172	169	3	3		105	2,431	2,536	1,733	243	603	34
Masulipatam - -	–	–	–	–	–	168	5,118	5,286	4,662	237	445	1
Nellore - -	74	9	65	56	9	293	2,990	3,283	2,680	–	307	31
Rajahmundry -	–	–	–	–	–	18	2,280	2,298	1,584	–	685	8
Salem - - -	27	2	25	11	14	–	2,453	2,453	1,199	–	1,181	14
Tinnevelly - -	30	4	26	7	19	8	1,544	1,552	1,003	14	497	12*
Trichinopoly - -	–	–	–	–	–	–	1,367	1,367	926	228	419	8
Verdachellum -	1	–	1	–	1	9	2,659	2,668	1,710	50	751	153
Vizagapatam - -	7	6	1	1	–	46	2,706	2,752	2,356	559	386	10
Grand Total - -	551	309	242	141	101	1,658	43,708	45,366	29,313	2,127	12,761	840

* Tinnevelly, 1 excess.

Acquitted - - - - - -	29,313
Convicted - - - - - -	13,601
Under Examination - - - -	2,733
	45,647
Deduct - -	281 excess
	45,366

DISTRICT POLICE and MAGISTRACY of each ZILLAH, from the 1st January to the 30th June 1829.

POLICE.					MAGISTRACY.										
12. Punishments inflicted.				13.	14.	15.	16.	17.	18.	19.	20. Punishments inflicted.			21.	22.
A.	B.	C.	D.								E.	F.	G.		
Fined.	Confined in the Choultry.	Confined in the Stocks.	Flogged.	Number of Persons under Examination at the close of this Report.	Number of Persons punishable by the Magistrate whose Cases were not disposed of at the close of the last Report.	Number of Persons brought before the Magistrate, for Offences punishable by him during the above Period.	Total of Columns 14 & 15.	Number acquitted.	Number included in Column 17, against whom the Accusation appeared to be wilfully false and malicious.	Number convicted and punished.	Fined.	Imprisoned.	Flogged.	Number of Persons under Examination at the close of this Report.	Number of Petty Offences of the Committers whereof no one has been discovered.
362	69	–	72	3	1	40	41	22	9	19	7	12	–	–	107
653	161	82	55	412	2	680	682	421	25	243	106	93	44	18	1
339	26	5	53	34	–	198	198	117	–	81	58	7	16	–	–
611	142	2	41	378	9	331	‡ 340	154	28	121	95	24	2	64	1
826	160	23	223	153	2	454	456	136	17	289	147	134	8	31	–
684	48	10	156	2	–	34	34	12	–	13	7	1	5	9	–
507	141	12	81	231	–	505	505	277	24	77	51	20	6	151	82
206	51	49	30	–	7	299	306	212	23	94	54	40	–	–	273
421	75	15	35	389	–	36	36	8	–	28	24	2	2	–	8
1,035	402	14	180	52	21	615	636	444	56	192	101	88	3	–	–
564	13	19	41	166	4	260	§ 264	149	4	100	73	20	7	14	–
365	38	12	30	179	9	212	221	143	6	46	21	16	9	32	26
191	56	14	77	265	–	224	224	163	1	55	36	17	2	6	–
522	100	28	43	21	–	71	71	38	–	33	22	8	3	–	32
918	117	25	135	59	10	417	427	286	–	141	110	14	17	–	64
418	22	1	67	41	–	129	129	63	11	66	55	–	11	–	–
400	12	–	15	14	–	288	288	203	58	68	49	12	7	17	–
696	85	13	110	54	–	1,002	1,002	824	2	177	135	38	4	1	–
196	156	28	16	† 280	55	164	219	139	12	80	32	42	6	‖ 166	–
9,914	1,874	352	1,460	2,733	120	5,959	6,079	3,811	276	1,923	1,183	588	152	509	594

† Vizagapatam, 280 excess. ‡ Chittoor, 1 deficiency. § Malabar, 1 deficiency. ‖ Vizagapatam, 166 excess.

Acquitted		3,811
Convicted		1,923
Under Examination		509
		6,243
Excess	166	
Deficiency	2	
	Excess	164
		6,079

X.—ABSTRACT STATEMENT of PETTY OFFENCES before the VILLAGE POLICE, DISTRICT POLICE,

DESIGNATION of PETTY OFFENCES.	VILLAGE POLICE.					DISTRICT - - - -					
	1. Number of Persons brought before Heads of Village Police for Offences punishable by them during the above Period.	2. Number acquitted or dismissed.	3. Number convicted and punished.	4. Punishments inflicted.		5. Number of Persons punishable by the District Police, whose Cases were not disposed of at the date of the last Report.	6. Number of Persons brought before Heads of District Police for Offences punishable by them, with or without Reference to the Magistrate, during the above Period.	7. TOTAL of Columns 5 and 6.	8. Number acquitted.	9. Number included in Column 8, against whom the Accusation appeared to be wilfully false and malicious.	10. Number convicted and punished without Reference to the Magistrate.
				Confined in the Village Choultry.	Confined in the Stocks.						
Petty Thefts - - -	66	6	60	36	24	61	2,902	2,963	1,212	149	3,681
Petty Assaults, &c. - -	485	303	182	105	77	1,596	40,793	42,389	28,099	1,978	11,176
Frauds on the Customs, when rented - - - - -	–	–	–	–	–	–	–	–	–	–	–
Illicit Collection of Customs by native Officers - - -	–	–	–	–	–	–	–	–	–	–	–
Illicit Collection of Customs by Natives not being Officers	–	–	–	–	–	–	–	–	–	–	–
Abuse of Authority by Police Officers - - - - -	–	–	–	–	–	–	–	–	–	–	–
Using false Weights and Measures - - - - -	–	–	–	–	–	–	1	1	–	–	–
False Complaint of petty Offences - - - -	–	–	–	–	–	1	7	8	1	–	–
Spirit-sellers harbouring Thieves, bartering Spirits for Grain, &c. - -	–	–	–	–	–	–	1	1	1	–	–
Illicit Sale of Spirits to European Soldiers - - - -	–	–	–	–	–	–	2	2	–	–	2
Possessing counterfeit Coin without good excuse -	1	–	1	1	–	–	1	1	–	–	1
Receiving stolen Goods -	–	–	–	–	–	–	1	1	–	–	1
Wantonly destroying Trees -	–	–	–	–	–	–	–	–	–	–	–
Disobedience of Orders -	–	–	–	–	–	–	–	–	–	–	–
Taking forcible Possession -	–	–	–	–	–	–	–	–	–	–	–
Pretending to Witchcraft -	–	–	–	–	–	–	–	–	–	–	–
Fraudulently retaining pledged Property - - - -	–	–	–	–	–	–	–	–	–	–	–
Appropriating unclaimed Property - - - - -	–	–	–	–	–	–	–	–	–	–	–
Taking Documents by Force	–	–	–	–	–	–	–	–	–	–	–
Revenue Laws (Breaches of certain) - - - - -	–	–	–	–	–	–	–	–	–	–	–
GRAND TOTAL - -	551	309	242	141	101	1,658	43,708	45,366	29,313	2,127	12,761

Acquitted	309	Acquitted - - -	29,313
Convicted	242	Convicted - - -	13,601
	551	Under Examination -	2,733
			45,647
		Deduct -	281 Excess.
			45,366

and MAGISTRACY, from the 1st January to 30th June 1829; distinguishing the OFFENCES, but not the Districts.

POLICE.						MAGISTRACY.										
11.	12. Punishments inflicted.				13.	14.	15.	16.	17.	18.	19.	20. Punishments inflicted.			21.	22.
Number convicted and punished after Reference to the Magistrate.	A.	B.	C.	D.	Number of Persons under Examination at the close of this Report.	Number of Persons punishable by the Magistrate whose Cases were not disposed of at the close of the last Report.	Number of Persons brought before the Magistrate for Offences punishable by him during the above Period.	TOTAL of Columns 14 and 15.	Number acquitted.	Number included in Column No. 17, against whom the Accusation appeared to be wilfully false and malicious.	Number convicted and punished.	E.	F.	G.	Number of Persons under Examination at the close of this Report.	Number of petty Offences, of the Committers whereof no one has been discovered.
	Fined.	Confined in the Choultry.	Confined in the Stocks.	Flogged.								Fined.	Imprisoned.	Flogged.		
118*	9	195	35	1,459	69†	*12	750	762	406	50	350	23	178	149	6	260
714	9,894	1,678	317	1	2,664‡	103	4,797	4,900	3,296	191	1,269	936	330	3	360¶	333
–	–	–	–	–	–	–	16	16	7	1	9	9	–	–	137**	–
–	–	–	–	–	–	–	14	14	7	–	7	7	–	–	–	–
–	–	–	–	–	–	–	2	2	–	–	–	–	–	–	2	–
–	–	–	–	–	–	–	52	52	25	9	27	26	1	–	4	–
1	1	–	–	–	–	–	56	56	13	–	43	25	18	–	–	–
7	6	1	–	–	–	2	160	162§	8	23	153	104	49	–	–	–
–	–	–	–	–	–	–	1	1	–	–	1	1	–	–	–	–
–	2	–	–	–	–	–	6	6‖	1	–	4	3	1	–	–	1
–	1	–	–	–	–	2	59	61	25	2	36	30	6	–	–	–
–	1	–	–	–	–	–	6	6	1	–	5	–	5	–	–	–
–	–	–	–	–	–	–	2	2	–	–	2	2	–	–	–	–
–	–	–	–	–	–	–	4	4	–	–	4	4	–	–	–	–
–	–	–	–	–	–	–	12	12	11	–	1	1	–	–	–	–
–	–	–	–	–	–	–	2	2	2	–	–	–	–	–	–	–
–	–	–	–	–	–	1	–	1	1	–	–	–	–	–	–	–
–	–	–	–	–	–	–	3	3	3	–	–	–	–	–	–	–
–	–	–	–	–	–	–	5	5	5	–	–	–	–	–	–	–
–	–	–	–	–	–	–	12	12	–	–	12	12	–	–	–	–
840	9,914	1,874	352	1,460	2,733	120	5,959	6,079	3,811	276	1,923	1,183	588	152	509	594

* 1 Excess.

† 16 Excess.
‡ 264 Excess.
280

§ 1 Deficiency.
‖ 1 ditto.

¶ 25 Excess.
** 137 ditto.
4 ditto.
166
Deduct 2 Deficiency.
164 Excess.

Acquitted - - - 3,811
Convicted - - - 1,923
Under Examination - 509
6,243
Deduct - 164 Excess.
6,079

XI.—GENERAL STATEMENT of CRIMES and MISDEMEANORS before the DISTRICT - -

	DISTRICT - - - - - - - - - -												
	1. Number of Cases ascertained to have occurred during the above Period.	2. Number of Persons supposed to have been concerned in the Cases in Column 1.	3. Number of Cases in Column 1 in which no one party concerned has yet been apprehended.	4. Number of Persons supposed to have been concerned in the Cases entered in Column 3.	5. Number brought before the District Police Officers for Crimes or Misdemeanors whose Cases were undisposed of at the close of last Report.		6. Number brought before District Police Officers during the above Period for Crimes or Misdemeanors committed before its commencement.		7. Number brought before District Police Officers during the above Period for Crimes or Misdemeanors committed within it.		8. TOTAL of Columns 5, 6 & 7.		9. Number of Persons released by the District Police Officers.
					Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	
Bellaree - - - -	256	995	154	729	2	9	6	15	102	266	110	290	85
Canara - - - -	253	653	122	335	6	12	10	*23	129	306	145	340	141
Chingleput - - - -	41	202	21	133	—	—	2	3	20	66	22	69	9
Chittoor - - - -	286	725	124	306	—	—	—	—	114	306	114	306	67
Combaconum - - -	75	480	26	103	3	6	2	17	41	181	46	204	26
Coimbatore - - - -	345	780	204	407	—	—	1	1	140	372	141	373	74
Cuddapah - - - -	534	1,186	312	516	19	46	2	16	222	670	243	732	296
Ganjam - - - -	171	2,469	157	2,437	—	—	4	11	10	21	14	32	8
Guntoor - - - -	105	313	69	184	1	6	10	11	36	79	47	96	17
Madura - - - -	85	569	17	150	9	89	6	39	59	211	74	339	229
Malabar - - - -	222	677	47	92	18	60	9	24	196	536	223	620	308
Masulipatam - - -	60	319	37	190	—	—	—	—	26	98	26	98	50
Nellore - - - -	84	280	26	46	2	6	7	17	58	212	67	235	91
Rajahmundry - - -	241	802	198	657	2	4	2	3	40	133	44	140	44
Salem - - - - -	163	611	40	278	4	22	36	129	111	297	151	448	145
Tinevelly - - - -	157	1,159	60	365	—	—	14	57	69	322	83	379	235
Trichinopoly - - -	90	474	65	403	—	—	—	—	11	28	11	28	6
Vedachellum - - -	126	530	85	401	—	—	24	46	26	79	50	125	42
Vizagapatam - - -	188	1,735	92	1,357	—	—	2	8	62	176	64	184	104
GRAND TOTAL - -	3,482	14,959	1,856	9,089	66	260	137	420	1,472	4,359	1,675	5,038	1,977

* Canara: 1 prisoner excess.

- - POLICE and MAGISTRACY in each ZILLAH, from the 1st January to the 30th June 1829.

- - POLICE.					MAGISTRACY.														
10. Number of Persons entered in Column 9 against whom the Accusation appeared to be wilfully false and malicious.	11. Number sent by the District Police Officers to the Criminal Judge.		12. Number not disposed of by the District Police Officers at the close of this Report.		13. Number brought before the Magistrates for Crimes or Misdemeanors, whose Cases were not disposed of at the close of the last Report.		14. Number brought before the Magistracy during the above Period for Crimes or Misdemeanors committed before its commencement.		15. Number brought before the Magistracy during the above Period for Crimes or Misdemeanors committed within it.		16. TOTAL of Columns 13, 14 & 15.		17. Number of Persons released by the Magistracy.	18. Number of Persons entered in Column 17 against whom the Accusation appeared to be wilfully false and malicious.	19. Number sent by the Magistracy to the Criminal Judge.		20. Number not yet disposed of by the Magistracy.		21. Number of Crimes and Misdemeanors, of the Committers whereof no one has been discovered.
	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.			Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	
–	79	203	2	2	2	19	7	44	15	62	24	125	66	–	7	17	6	42	154
4	92	187	3	12	–	–	7	44	40	110	47	154	92	11	17	44	4	18	122
–	16	49	4	11	–	–	2	5	7	22	9	27	20	–	3	7	–	–	21
–	97	239	–	–	–	–	–	–	48	113	48	113	63	23	25	50	–	–	124
–	40	152	5	26	3	7	1	9	9	47	13	63	5	3	12	34	1	24	26
36	105	299	–	–	–	–	–	2	–	–	1	2	–	–	1	2	–	–	204
9	146	394	10	42	–	–	4	7	20	50	24	57	30	12	13	27	–	–	312
–	13	24	–	–	3	5	2	2	10	28	15	35	9	–	8	13	6	13	157
–	46	79	–	–	–	–	–	–	2	5	2	5	–	–	2	5	–	–	69
101	30	103	4	7	2	11	11	53	24	82	37	146	118	14	7	28	–	–	17
49	132	271	14	41	1	1	5	12	29	110	35	123	73	–	11	36	3	14	47
19	14	48	–	–	3	11	2	3	7	17	12	31	10	–	3	8	5	13	37
–	45	131	2	13	–	–	1	5	10	42	11	47	29	–	3	9	2	9	26
–	26	95	1	1	–	–	2	5	3	12	5	17	6	–	2	11	–	–	198
–	109	293	4	10	1	1	3	11	12	36	16	48	23	–	11	25	–	–	40
–	28	138	3	6	–	–	7	54	11	32	18	86	76	–	6	10	–	–	68
3	8	22	1	† 2	1	6	1	1	12	34	14	41	22	11	3	12	2	7	65
7	38	81	1	2	–	–	8	48	15	22	23	70	54	–	5	13	1	3	85
53	27	80	7	‡ 55	4	35	8	16	32	153	44	204	160	32	10	44	45	§ 387	42
281	1,091	2,888	61	230	20	96	72	321	306	977	398	1,394	856	106	149	395	75	530	1,814

† Trichinopoly, 2 excess. ‡ Vizagapatam, 55 excess. § Vizagapatam, 387 excess.

XII.—ABSTRACT STATEMENT of CRIMES and MISDEMEANORS before the - - - -

DESIGNATION of CRIMES and MISDEMEANORS.	DISTRICT - - - - - - - - -												
	1. Number of Cases ascertained to have occurred during the above period.	2. Number of Persons supposed to have been concerned in the Cases in Column 1.	3. Number of Cases in Column 1, in which no one Party concerned has yet been apprehended.	4. Number of Persons supposed to have been concerned in the Cases entered in Column 3.	5. Number brought before the District Police Officers for Crimes or Misdemeanors whose Cases were not disposed of at the close of last Report.		6. Number brought before District Police Officers, during the above period, for Crimes or Misdemeanors.		7. Number brought before District Police Officers, during the above period, for Crimes or Misdemeanors committed within it.		8. TOTAL of Columns 5, 6 & 7.		9. Number of Persons released by the District Police Officers.
					Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	
Murder	104	369	33	115	3	5	7	10	67	220	77	235	56
Culpable Homicide	24	82	1	30	2	2	1	4	14	29	17	35	10
Robbery and Murder	23	234	15	164	1	1	1	1	8	39	10	41	3
Gang Robbery	686	7,455	410	5,656	7	42	23	143	236	1,150	266	1,335	447
Robbery by a single Individual	168	157	105	100	1	1	—	—	50	45	51	46	4
Housebreaking by Day	27	49	17	24	1	1	1	2	10	25	12	28	11
Ditto by Night	1,051	2,647	796	1,671	18	48	16	67	256	771	290	886	404
Theft	849	2,284	384	1,033	17	103	55	121*	406	918	478	1,141	547
Receiving Stolen Goods	100	274	6	9	5	15	21	48	82	233	108	296	82
Arson	123	318	49	161	1	3	3	7	73	153	77	163	98
Sodomy	13	28	—	—	—	—	—	—	13	28	13	28	22
Rape	16	26	—	—	—	—	—	—	8	14	8	14	2
Adultery	2	2	—	—	—	—	—	—	2	2	2	2	—
Procuring Abortion	19	42	—	—	—	—	—	—	18	41	18	41	16
Forgery	18	28	—	—	1	2	2	2	18	27	21	31	11
Perjury	—	1	—	—	—	—	—	—	—	—	—	—	—
Subornation of Perjury or Forgery	2	7	—	—	—	—	1	5	1	6	2	11	9
Abuse (serious) of Authority by Police Officers	6	18	—	—	—	—	—	—	4	16	4	16	3
Resistance to Legal Process	4	14	1	4	—	—	—	—	3	10	3	10	1
Returning from Transportation	1	1	—	—	—	—	—	—	1	1	1	1	—
Escaping from Custody	7	7	4	5	—	—	1	1	3	2	4	3	—
Maiming and Wounding	151	689	19	79	5	28	4	8	131	445	140	481	179
Revenue Laws (Breaches of certain)	47	117	16	38	3	7	1	1	29	76	33	84	39
Forcibly causing another to dip his hand in boiling Glue	—	—	—	—	—	—	—	—	—	—	—	—	—
Poisoning or killing Cattle	3	3	—	—	—	—	—	—	4	5	4	5	4
Fraudulently making away with Letters	—	—	—	—	—	—	—	—	—	—	—	—	—
Administering Poison	1	1	—	—	—	—	—	—	1	1	1	1	1
Fabricating false Receipts	1	5	—	—	—	—	—	—	—	—	—	—	—
False Imprisonment	—	—	—	—	—	—	—	—	2	18	2	18	18
Attempt to rob	1	16	—	—	—	—	—	—	1	7	1	7	2
Coin (Offences relating to)	4	5	—	—	—	—	—	—	4	5	4	5	—
Allowing Prisoners to escape	1	3	—	—	—	—	—	—	1	3	1	3	—
Attempt to murder	1	2	—	—	—	—	—	—	1	2	1	2	—
Kidnapping Children	2	7	—	—	—	—	—	—	2	7	2	7	1
Opening Letters addressed to others	—	—	—	—	—	2	—	—	—	—	1	2	2
Forcible Proselytism to Mahomedanism	1	2	—	—	—	—	—	—	1	2	1	2	2
Bribery	4	10	—	—	—	—	—	—	4	10	4	10	1
Affrays	22	56	—	—	—	—	—	—	18	48	18	48	2
	3,482	14,959	1,856	9,089	66	260	137	420	1,472	4,359	1,675	5,038	1,977

* Theft, 1 Excess.

Acquitted	1,977
Sent to the Civil Judge	2,888
Under Examination	230
	5,095
Deduct Excess	57
	5,038

- - - DISTRICT POLICE and MAGISTRACY, from the 1st January to the 30th June 1829.

POLICE.					MAGISTRACY.														
10.	11.		12.		13.		14.		15.		16.		17.	18.	19.		20.		21.	
Number of Persons entered in Column 9, against whom the Accusation appeared to be wilfully false and malicious.	Number sent by the District Police Officers to the Criminal Judge.		Number not disposed of by the District Police Officers, at the close of this Report.		Number brought before the Magistracy for Crimes or Misdemeanors whose Cases were not disposed of at the close of the last Report.		Number brought before the Magistracy during the above period, for Crimes or Misdemeanors committed before its commencement.		Number brought before the Magistracy during the above period, for Crimes or Misdemeanors committed within it.		TOTAL of Columns 13, 14 & 15.		Number of Persons released by the Magistracy.	Number of Persons entered in Column 17, against whom the Accusation appeared to be wilfully false and malicious.	Number sent by the Magistracy to the Criminal Judge.		Number not yet disposed of by the Magistracy.		Number of Crimes and Misdemeanors, of the Committers whereof no one has been discovered.	Excess from Column No. 16.
	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.			Number of Cases.	Number of Persons.	Number of Cases.	Number of Persons.		
8	58	177	1	2	3	3	7	51	14	51	24	105	75	7	7	15	6	24	30	9
-	14	25	-	-	1	6	2	7	11	27	14	40	31	6	2	6	1	3	1	
-	9	38	-	-	1	7	-	-	1	27	2	34	2	-	-	-	3	33	14	1
42	189	831	19	111*	8	55	19	135	64	355	91	545	355	56	30	144	26	383	384	337
1	47	42	-	-	-	-	2	2	16	15	18	17	11	3	6	5	1	1	105	
-	8	17	-	-	-	-	1	3	1	3	2	6	6	-	-	-	1	2	16	2
19	169	459	11	26†	-	-	5	20	27	81	32	101	72	14	11	28	2	2	804	1
128	288	535	17	59	3	12	8	15	79	207	90	234	140	7	39	81	9	22	383	9
3	88	212	1	2	1	1	2	3	11	20	14	24	9	1	7	15	-	-	6	
18	29	48	5	17	-	-	4	6	10	24	14	30	18	2	1	4	2	8	49	
16	5	6	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	6	12	-	-	-	-	2	2	11	15	13	17	14	4	3	3	-	-	-	
-	2	2	-	-	-	-	-	-	2	4	2	4	2	-	1	2	-	-	-	
-	10	23	1	2	-	-	-	-	1	1	1	1	1	-	-	-	-	-	-	
2	10	17	1	3	-	-	2	8	9	20	11	28	5	2	4	15	4	8	-	
-	-	-	-	-	-	-	-	-	3	7	3	7	-	-	3	7	-	-	-	
-	1	2	-	-	-	-	-	-	2	5	2	5	4	4	1	1	-	-	-	
-	3	13	-	-	1	1	3	10	5	13	9	24	13	-	4	7	1	4	-	
-	2	9	-	-	-	-	-	-	2	5	2	5	4	-	1	1	-	-	-	
-	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	4	3	-	-	-	-	3	3	-	-	3	3	-	-	3	3	-	-	2	
25	98	295	5	7	1	10	6	17	15	45	22	72	51	-	8	21	1	4	17	4
-	20	44	-	1	-	-	4	37	9	21	13	58	37	-	5	9	18	36	3	24
-	-	-	-	-	-	-	-	-	1	5	1	5	-	-	1	5	-	-	-	
1	1	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	-	-	-	-	-	-	-	-	1	1	1	1	-	-	1	1	-	-	-	
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	-	-	-	-	-	-	-	-	1	5	1	5	-	-	1	5	-	-	-	
18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	1	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	4	5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	1	3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	1	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	2	6	-	-	1	1	1	1	1	4	3	6	-	-	3	6	-	-	-	
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
-	3	9	-	-	-	-	1	1	3	6	4	7	5	-	2	2	-	-	-	
-	17	46	-	-	-	-	-	-	6	10	6	10	1	-	5	9	-	-	-	
281	1,091	2,888	61	230	20	96	72	321	306	977	398	1,394	856	106	149	395	75	530	1,814	387

* Gang Robbery - - 54 Excess.
† Housebreaking by Night 3 ditto.
57

Acquitted - - - - - - - -	856
Sent to the Civil Judge - - - - - -	395
Under Examination - - - - - -	530
	1,781
Deduct Excess - - - - - - -	387
	1,394

(6.)—BOMBAY CIVIL STATEMENTS

LIST.

I.—STATEMENT of the Number of Original Suits depending at the beginning and end of 1829, and instituted and disposed of during that year, in each of the Zillah Courts; showing by which of the Functionaries they were disposed of, and the Amount of Property in Litigation in them. Also, the Extent and Population of the Zillahs - - - - - - - - - - - p. 621

II.—A similar STATEMENT, with respect to Appeals from the Decrees of Assistant Judges, Collectors and native Functionaries, (but not stating the Value of the Property in Litigation) - - - - - - - - - p. 622

III.—STATEMENT of the Number of Appeals on the File of the Sudder Dewanny Adawlut, and of the Provincial Court for Guzerat (since abolished), at the beginning and end of 1829, and disposed of by those Courts within that year. Also, the pecuniary Amount of the Appeals decided - - - p. 623

I.—ORIGINAL SUITS depending at the beginning and end of 1829, and instituted and disposed of during that Year, in each of the ZILLAH COURTS under the Presidency of *Bombay*.

	1. On the File on the 1st of January 1829.	2. Instituted during the Year.	3. Decided on the Merits.	4. Dismissed for Default.	5. Adjusted.	BY WHOM DISPOSED OF. EUROPEAN AGENTS. 6. The Judge.	7. Senior Assistant detached.	8. First Senior Assistant Judge.	9. 2d or 3d Assistant Judge.	10. Junior Assistant Judge.	NATIVE AGENTS. 11. Sudder Ameen.	12. Native Commissioners at the Sudder Station.	13. Native Commissioners in the Pergunnahs.	14. Punchayet.	15. TOTAL disposed of.	16. Remaining on the 1st of January 1830.	17. On the File from One to Two Years.	18. Above Two Years.	19. AMOUNT of Property in Litigation in the Suits in Column 15.
																			R. A. P.
Surat	1,220	6,761	4,412	1,209	1,569	16	–	253	–	1,313	–	3,056	2,508	44	7,190	778	36	6	8,52,858 2 51
Ahmedabad	527	9,701	5,005	1,947	3,049	22	–	228	190	251	–	1,671	7,665	25	10,051	176	–	–	11,64,322 3 61 ¼
North Concan	1,511	2,774	2,772	453	290	2	–	180	–	–	–	1,294	2,039	–	3,515	770	22	–	2,11,771 3 24
South Concan	59	3,393	1,147	1,569	678	–	–	24	–	–	392	504	2,474	–	3,394	58	–	–	85,457 1 52 ½
Poonah and Sholapore	2,243	5,377	5,189	362	937	–	124	42	21	388	241	2,678	1,139	1	6,488	1,132	58	23	5,78,986 6 34
Ahmednugger and Kandeish	1,196	8,533	5,104	520	2,065	1	–	33	–	790	–	729	7,037	–	8,589	1,140	45	11	3,67,167 1 12
	6,756	36,539	24,569	5,960	8,588	40	124	760	211	2,742	633	9,932	22,862	70	39,227	4,054	161	40	32,60,565 2 34 ¾

EXTENT and POPULATION of the ZILLAHS.

	Square Miles.	Population in 1822.		Square Miles.	Population in 1822.
Surat	1,350	454,431	South Concan	8,770	640,857
Ahmedabad	6,450	1,012,808	Poonah and Sholapore Ahmednugger	20,870	484,717 650,000
North Concan	5,500	387,264	Kandeish	12,430	417,976

II.—APPEALS from the Decrees of ASSISTANT JUDGES, COLLECTORS and NATIVE FUNCTIONARIES, depending at the beginning and end of 1829, and preferred and disposed of during that Year, in each of the ZILLAH COURTS under the Presidency of *Bombay*.

	Depending on the 1st of Jan. 1829.	PREFERRED DURING THE YEAR.				Decided on Trial.	Dismissed for Default.	Adjusted.	Decrees of Assistant Judges.			Of Collectors and their Assistants.			Of native Commissioners and Punchayets.			Disposed of by the Judge.	By the Senior Assistant Judge.	By the third Assistant Judge.	By the Senior Assistant detached.	Total disposed of.	On the File on the 1st of Jan. 1830.	On the File more than one Year.
		From Decrees of Senior and Junior Assistant Judges.	From Decrees of Collectors and their Assistants.	From Decrees of Sudder Ameens, native Commissioners and Punchayets.	Total.				Confirmed.	Amended.	Reversed.	Confirmed.	Amended.	Reversed.	Confirmed.	Amended.	Reversed.							
Surat - - -	363	192	7	380	579	419	22	49	52	13	24	5	1	–	181	29	114	310	180	–	–	490	452	3
Ahmedabad - -	33	83	–	285	368	366	6	15	43	13	16	–	–	–	144	30	121	387	–	–	–	387	14	–
Concan, North - -	72	26	–	97	123	139	7	3	14	2	2	–	–	–	56	17	48	149	–	–	–	149	46	–
Concan, South - -	29	40	47	84	171	152	7	4	20	4	12	29	2	8	46	1	41	75	88	–	–	163	37	5
Poonah and Sholapore	313	230	–	320	550	396	20	37	47	13	30	–	–	–	196	42	85	90	120	41	164	443	410	98
Ahmednugger and Kandeish - -	34	71	–	108	179	116	35	6	14	4	9	–	–	–	56	9	24	20	78	–	59	157	56	12
TOTAL - -	844	642	54	1,274	1,970	1,588	97	114	190	49	93	34	3	8	679	128	432	1,031	466	41	223	1,789	1,015	118

III.—*APPEALS* on the File of the SUDDER DEWANNY ADAWLUT, for the Presidency of *Bombay*, and of the Provincial Court for *Guzerat*, at the beginning and end of 1829, and disposed of by those Courts within that Year.

[*Note.*—The *Provincial Court* was instituted in 1828, and *abolished* in February 1830.]

SUDDER DEWANNY ADAWLUT, from the	On the File on 1st January 1829.	Preferred during the Year.	TOTAL.	Decided on the Merits.	Dismissed for Default.	Adjusted.	The Decree confirmed.	The Decree amended.	The Decree reversed.	TOTAL disposed of.	On the File on 1st January 1830.	On the File longer than one Year.	AMOUNT OF THE APPEALS DECIDED.
ZILLAH COURTS of													R. A. P.
Surat - - - -	—	12	12	- -	- -	- -	- -	- -	- -	- -	12	—	—
North Concan - - -	8	4	12	3	1	- -	1	1	- -	4	9	5	18,599 - -
South Concan - - -	48	14	62	36	2	1	19	4	10	39	26	13	26,520 2 97
Poona and Sholapore - -	9	7	16	9	- -	1	6	1	1	10	7	2	1,47,165 1 87
Ahmedabad and Kandeish -	3	5	8	1	- -	- -	1	- -	- -	1	7	2	2,311 - -
	68	42	110	49	3	2	27	6	11	54	61	22	1,94,590 - 85
PROVINCIAL COURT for GUZERAT, from													
Surat - - - -	132	63	195	74	2	7	30	13	22	74	121	56	2,81,772 1 6
Ahmedabad - - -	47	41	88	22	1	5	8	- -	8	22	66	27	70,895 - 66
	179	104	283	96	3	12	38	13	30	96	187	83	3,52,667 1 72

(7.)—BOMBAY CRIMINAL

ABSTRACT of the PROCEEDINGS of the several CRIMINAL COURTS, - - - - - -

ZILLAHS.	MAGISTRATES AND POLICE OFFICERS.											CRIMINAL JUDGES.						
	Complaints preferred.				Number of Persons			Punished						Imprisoned, with or without Fine and Corporal Punishment,				
	Cognizable by Heads of Villages and Districts.	Cognizable by Magistrates and their Assistants.	Cognizable by Criminal Judges.	TOTAL.	Supposed to be concerned.	Apprehended.	Acquitted.	By Collectors, as Magistrates, and their Assistants.	By the Heads of Villages and Districts on the spot.	TOTAL.	Remitted to the Criminal Judges.	Acquitted, or discharged with or without Punishment.	Convicted.	For One Year and under.	From One to Seven Years.	Fined and released.	Referred to the Court of Circuit, or to the Foujdarry Adawlut.	Remaining to be tried.
Surat - - -	780	1,410	1,877	4,067	7,230	3,908	617	304	883	1,187	2,123	1,615	508	238	78	178	31	-
Ahmedabad - -	1,842	257	315	1,254	4,262	2,960	190	1,101	1,185	2,286	499	216	283	127	115	15	26	-
North Concan - -	1,056	116	379	1,751	3,953	1,950	104	242	1,178	1,420	411	209	202	46	53	40	63	-
South - ditto - -	1,222	188	162	1,572	3,385	2,851	328	264	1,966	2,230	291	154	137	38	51	23	25	-
Poona and Sholapoor -	428	1,471	47	1,946	4,166	2,962	1,500	1,032	284	1,441	133	24	45	2	14	1	28 to the Foujdy Adawlut,	64
Ahmednugger and Candeish - - -	1,516	1,239	109	1,858	3,740	2,235	877	414	688	1,144	215	25	131	21	94	4	12 to the Foujdy Adawlut, 145 40	59
	6,844	4,681	2,889	12,488	26,736	16,866	3,616	3,357	6,184	9,708	3,672	2,243	1,306	472	405	261	185	123

	ESTIMATED AMOUNT OF PROPERTY		AMOUNT OF
	STOLEN.	RECOVERED.	By Collectors, Magistrates, &c.
Surat - - - - - - - - -	1,19,785 - 44	12,043 2 25	1,648 3 83
Ahmedabad - - - - - - -	43,869 3 75	2,581 3 50	3,112 1 68
North Concan - - - - - -	79,278 - 53	11,951 2 75	- - -
South - ditto - - - - - - -	19,882 - 47	2,656 - 92	2,331 2 87
Poona and Sholapoor - - - - -	53,870 1 18	4,348 - 12	3,605 - 85
Ahmednugger and Candeish - - - -	1,26,412 3 88	44,013 3 60	2,398 - 12
	4,43,098 2 25	77,595 1 14	13,095 3 35

CRIMINAL STATEMENT.

- - - - - and the POLICE, under the Presidency of *Bombay*, in the Year 1829.

COURTS OF CIRCUIT.							FOUJDARRY ADAWLUT.								EXTENT and POPULATION.		ZILLAHS.
Acquitted and discharged.	Convicted.	Imprisoned: For Seven Years and under.	Imprisoned: For Fourteen Years.	Fined, punished and released.	Capitally convicted, and referred to the Foujdarry Adawlut.	Deferred to the Session of 1830.	Acquitted.	Convicted.	Sentenced to: Imprisonment: For Fourteen Years and under.	Sentenced to: Imprisonment: For Life.	Sentenced to: Transportation for Life.	Sentenced to: Death. (and executed.)	Convicts in Gaol on the 1st January 1830.	Under Sentence of Imprisonment for Life.	Extent in Square Miles of each Zillah.	Population in 1822.	
6	22	8	–	–	14	3	2	12	1	–	2	9	133	3	1,350	454,431	Surat.
15	11	4	1	–	6	–	–	6	–	1	4	1	635	28	6,450	1,012,808	Ahmedabad.
10	53	7	15	–	31	–	3	28	7	–	18	3	231	6	5,500	387,264	North Concan.
3	22	10	–	–	12	–	–	12	2	2	4	4	255	3	6,770	640,857	South - ditto.
–	–	–	–	–	28	–	–	28	27	–	–	1	496	–	20,870 (Poonah, Sholapoor, and Ahmednugger.)	P. & S. 484,717	Poona and Sholapoor.
–	–	–	–	–	12	–	1	11	–	–	7	4	619	–	12,430 (Kandeish.)	A. & K. 1,067,976	Ahmednugger and Candeish.
34	108	29	16	–	103	3	6	97	37	3	35	22	2,369	40	53,370	4,048,051	

FINES LEVIED By Criminal Judges.			NUMBER OF WITNESSES SUMMONED to the SUDDER STATION on CAPITAL CASES. Ryots.	Other Persons.	TOTAL.	
1,416	3	–	95	76	171	- - - - Surat.
2,867	1	75	153	68	221	- - - - Ahmedabad.
619	–	–	231	43	274	- - - - North Concan.
263	–	45	25	140	165	- - - - South - ditto.
50	–	–	—	—	—	- - - - Poona and Sholapoor.
178	–	–	—	—	—	- - - - Ahmednugger and Candeish.
5,385	1	20	504	327	831	

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

(8.)—MEMORANDUM, prepared in the Office of the Judicial Secretary at *Calcutta*, with two Notes in continuation, on the Expense and Operation of the Judicial Establishment.

INDEPENDENTLY of the city of Calcutta and of the territories subject to the civil commissioners at Delhi, Cumaoon, Saugor and the banks of the Nerbudda, and other tracts in which our Regulations are not in force, the provinces in which the system of police and of judicial administration prescribed by the code of Regulations has effect, comprise forty-five districts. On a general average each of those districts may be assumed to contain a population of not less than 1,000,000 of souls, or 45,000,000 altogether.

The total net expense of the courts of civil and criminal justice, including European and native officers, the construction, repair and rent of gaols, cucherries and other public buildings, the establishments for the maintenance of the police, and for the custody, transportation and support of convicts, the allowance granted to indigent prosecutors and witnesses, as well as various other contingent expenses appertaining to the Judicial department, amounted in the official year 1817–18, to Rs 58,36,628.

The amount realized from the various branches of revenue in the territory subject to the Presidency of Fort William, in the official year 1817–18, was upwards of ten crores of rupees; and assuming the *bonâ fide* expenses of the Judicial department to be sixty lacs, those expenses will be in the proportion of 6 per cent. of the annual revenue.

STATE of the POLICE, and ADMINISTRATION of CRIMINAL JUSTICE.

THE Returns periodically submitted to Government, of the number of crimes perpetrated in these provinces, comprise not merely the cases in which the persons injured come forward to inform and prosecute, but every offence which the superintendents of police, the magistrates and their police officers can discover to have been committed.

The village watchmen, munduls, landholders, farmers, &c. are bound to give immediate information of the occurrence of offences, and are subject to penalties where they fail to do so with regard to crimes of a heinous nature. These crimes and offences are all included in the Returns submitted to Government, and comprise not only those cases in which the perpetrators are apprehended and brought to trial, but those also in which no trace of the perpetrator can be discovered.

This practice is essentially different from that of England, and there is probably no country in Europe in which the number of crimes actually committed is so fully brought to the knowledge of the Government, as with us. The periodical Reports submitted by the superintendents of police, are highly valuable in this respect.

With reference to the foregoing preliminary observations, the progress of the police in the prevention or suppression of the most heinous descriptions of crimes, will be sufficiently apparent from the following Abstract Statements, separately prepared for the two divisions of the Lower Provinces and Western Provinces.

LOWER PROVINCES.

	Total Gang Robberies.	Of Wilful Murders.	Of Violent Affrays.	TOTAL.
Average of each year, from 1803 to 1807 inclusive	1,481	406	482	2,369
Ditto of each year, from 1808 to 1812 inclusive	927	326	204	1,457
Ditto of each year, from 1813 to 1817 inclusive	339	188	98	625
Number committed in the year 1818	217	138	49	404

WESTERN PROVINCES.

	1813.	1814.	1815.	1816.	1817.	1818.
Decoity and Murder	40	24	45	22	18	8
Ditto and Wounding	96	47	53	51	30	21
Simple Decoity	45	23	32	22	27	14
Highway Robbery by Horsemen	56	42	61	28	29	12
Highway Robbery by Footpads	635	460	395	401	384	354
Murder by Thugs	49	74	68	68	22	10
Violent Affrays	190	204	134	100	99	182
TOTAL	1,111	874	788	692	609	601

The

Appendix, No. 5.

(8.) Memorandum on the Expense and Operation of the *Bengal* Judicial Establishment.

The following Statement exhibits a comparison between the number of heinous offences committed both in the Lower and in the Western Provinces in the years 1817 and 1818 respectively:—

	1817.	1818.
Total Decoities - - - -	341	260
Highway Robberies - - -	517	452
Wilful Murders - - - -	461	375
Violent Affrays - - - -	159	242
TOTAL - - -	1,478	1,329

The total number of persons convicted and punished for minor offences by the magistrates, amounted in the year 1818 to 29,893.

The number convicted of more heinous crimes, and punished by the courts of circuit or by the Nizamut Adawlut, amounted in the year 1818 to 3,371.

The total number of convicts or prisoners in confinement for criminal offences, in all the districts of these provinces, amounted at the close of the year 1818 to 23,880, being 1,100 less than at the corresponding period of the preceding year. The foregoing statements considered with reference to the extent of the population, exhibit no unfavourable view of the efficiency of the police, and of the administration of criminal justice.

During the last three or four years, several very considerable improvements have been effected in the laws relating to the administration of the police and of criminal justice, and in the principles of our penal code.

The extent of these improvements will be sufficiently apparent, by a reference to the Regulations specified in the margin.

Regulations
XVII. } 1816.
XXII. }
XVII. } 1817.
XX. }
III. }
VI. } 1818.
VIII. }
XII. }

The penalties for different crimes are either specifically prescribed by our Regulations, or, where the Mahomedan law is still in force, the application of its penalties is limited within specified bounds by general principles embodied in our code.

A sufficient judgment may be formed of the general nature of the punishments to which criminals who may be duly convicted of crimes under our system are subject, from the following statements and observations:

No sentence extending to death, or to transportation for life, or for imprisonment for a longer period than fourteen years, can be passed, except by the Nizamut Adawlut.

No sentence of imprisonment exceeding two years, can be passed, except by the court of circuit.

The magistrates have the power of sentencing to two years, persons convicted of certain descriptions of burglary, cattle stealing and theft, and of receiving stolen property under stated circumstances.

In all other cases their power of inflicting punishment is limited to imprisonment for six months, with the addition in some cases of stripes, and in others of fine.

Sentence extending to death, may be awarded against persons duly convicted—

No. 1. Of treason, or rebellion against the state.

No. 2. Of wilful murder.

No. 3. Of returning from transportation beyond sea, under sentence of perpetual imprisonment.

No. 4. Of gang robbery, highway robbery, burglary or theft, attended with murder.

No. 5. Leaders of gangs or watchmen convicted of gang or highway robbery, attended with torture or other severe personal injury, or of a second offence of gang robbery or highway robbery.

Sentence extending to imprisonment with hard labour, or transportation beyond sea for life, may be awarded against persons convicted of—

No. 6. Gang or highway robbery not coming under the heads Nos. 4 & 5.

No. 7. Burglary or theft, attended with an attempt to commit murder.

No. 8. Contumacy of persons outlawed on charges of gang robbery.

No. 9. Rape, sodomy or bestiality.

Sentence extending to imprisonment for fourteen years, with hard labour, may be awarded against persons convicted of—

No. 10. Wilful maiming or wounding.

No. 11. Burglary or theft, attended with certain acts of aggravation not coming under the head No. 8, or on conviction of a second offence.

No. 12. Knowingly receiving stolen property under specified circumstances of aggravation.

No. 13. Coining.

No. 14. Forgery under specified circumstances of aggravation, or on a repetition of the offence.

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

Sentence extending to seven years' imprisonment, with hard labour, may be passed on persons convicted of the following offences:—

No. 15. Forgery, not coming under the foregoing head; also procuring and knowingly issuing and uttering forgeries.

No. 16. Clipping and debasing the coin, or knowingly issuing counterfeit coin.

No. 17. Perjury, and subornation of perjury.

No. 18. Breaking prison under certain circumstances of aggravation.

No. 19. Cheats, frauds and embezzlements, corruption and extortion, under certain circumstances.

No. 20. Various other offences and misdemeanors involving punishments beyond the competency of the magistrates.

Persons convicted of some of the above offences, are liable to further punishment by thirty-nine, or fewer stripes, by fines or forfeitures, by banishment to another district; and in cases of perjury and forgery, by public exposure.

It is unnecessary, in a brief memorandum of this nature, to enter into a more full detail of our penal laws. It will be seen, however, from the foregoing list, that they are not sanguinary in principle.

In their practical application the infliction is generally less than the extreme penalty authorized.

The humane attention shown by the magistrates and medical officers to the health and reasonable comforts of the prisoners, to their separation and proper classification as far as the buildings in which they are confined may admit, will be obvious from the reports of the judges of circuit, who are bound carefully to inspect and to report upon those points at every sessions of gaol delivery.*

The expense incurred by Government on account of the construction of new gaols and hospitals, and of repairs and improvements to the old ones, has for some years past annually amounted to a very considerable sum; but the importance of the objects for which the expenditure is incurred is too obvious to be disputed.

Civil Justice.

The principal alterations which have lately taken place in the system for the administration of civil justice, will be found in the Regulations cited at the foot of the page.†

The progress which has taken place in the reduction of the arrears of civil suits since the period when the Regulations published in 1814 began to have effect, will be sufficiently understood from the three following Statements.

Statement of the Total Number of Regular Suits and Appeals depending before the several Courts, both in the Lower and Western Provinces, on the 1st January 1815, compared with the Number depending on the 1st of January 1819.

BEFORE THE	On the 1st January 1815.	On the 1st January 1819.	Increase.	Decrease.	Remarks.
‡Sudder Dewanny Adawlut and Provincial Courts	4,245	3,005	-	1,240	—
Zillah Judges & Registers	30,924	18,485	-	12,439	—
Sudder Ameens & Moonsiffs	99,700	59,716	-	39,984	—
Total	1,34,869	81,206	-	53,663	Net decrease.

* *Vide* Rules promulgated on the 4th April 1807 and 8th February 1811.
Also, Regulation VI. - - - - - - - - - - 1803.
— IV. XIV. - - - - - - - - - 1816.

† Regulations XXIII. XXIV. XXV. XXVI. XXVII. - - - 1814.
— XV. - - - - - - - - - 1816.
— III. XIX. - - - - - - - - - 1817.

The Sudder Dewanny Adawlut and Provincial Courts comprise - - 28 Judges.
The Zillah and City Judges and Registers amount to - - - - 103
The Sudder Ameens and Moonsiffs amount to about - - - - 885
Total - - - 1,016

MEMORANDUM of the TOTAL NUMBER of REGULAR CIVIL SUITS, whether Original or in Appeal, depending in the Western and Lower Provinces, on the 1st January 1815, 1816, 1817, 1818 and 1819.

	1st January 1815.	1st January 1816.	1st January 1817.	1st January 1818.	1st January 1819.
Sudder Dewanny Adawlut -	415	432	442	369	302
Provincial Courts - -	3,830	3,705	3,581	3,313	2,703
Zillah and City Judges -	19,775	16,898	12,366	8,530	8,683
Ditto - - - Registers -	11,149	9,262	8,339	9,800	9,802
Sudder Ameens - -	21,932	28,594	29,041	27,230	24,835
Moonsiffs - - -	77,768	58,235	38,730	29,795	34,881
TOTAL - - -	1,34,869	1,17,126	92,499	79,037	81,206

STATEMENT, showing the TOTAL NUMBER of REGULAR SUITS and APPEALS depending on the 1st January 1819, and the Number disposed of in the several Courts during the whole year of 1818.

	Depending on the 1st January 1819.	Disposed of during the whole year of 1818.	Average period that would elapse between the institution and decision of Suits in each Court.
Sudder Dewanny Adawlut - - - - -	302	144	2 years 1 month.
Provincial Courts - - - - - - -	2,703	1,839	1 ditto - 6 ditto.
Zillah Judges - - - - - - -	8,683	6,254	1 ditto - 4 ditto.
Registers - - - - - - - -	9,802	11,269	9 months.
Sudder Ameens - - - - - - -	24,835	42,378	7 ditto.
Moonsiffs - - - - - - - -	34,881	77,326	5 ditto.
TOTAL - - -	81,206	1,39,210	

The amount of the expense to which the parties are subjected in the adjudication of causes in our civil courts has been greatly misrepresented.

The expense incurred by both parties in civil suits cognizable in the courts of the Moonsiffs, Sudder Ameens and Registers, which vary in their value or amount from 1 to 500 rupees, or from 2 to 50 *l.* sterling, including the expenses of both parties from the commencement to the conclusion of a suit, amounts on an average to 22 per cent.

In suits from 500 to 5,000 rupees, or in those ordinarily cognizable by the zillah judges, the expenses as above explained average about 16 per cent. of the value of the thing litigated.

In the class of suits tried by the provincial courts the expense is in the average proportion of 9 per cent.

In suits cognizable by the Sudder Dewanny Adawlut, the expense to the parties bears an average proportion to the thing litigated of 6 per cent.

These results, founded on official inquiries, were reported to Government in the secretary's Memorandum of the 19th May 1818; they include all authorized costs and expenses of every description of both plaintiff and defendant; the institution fee, the fees on exhibits and processes of all kinds, stamp paper, pleaders' fees, allowance to witnesses, &c. &c. and are charged in the decree to the plaintiff or to the defendant, or divided between the parties according to the nature of the case, and with reference to the party in whose favour the judgment is given.

The expense can only be considered heavy in cases below 500 rupees; and even that will appear extremely light when compared with the expenses incurred by litigants either in courts of law or equity in England regarding contested claims to a similar amount.

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

Judicial charges.

NOTE:

In continuation of the MEMORANDUM prepared by Mr. *Bayley* in the year 1819, on general subjects connected with the Judicial Administration.

WITH his annual report on the state of the police in the Lower Provinces for the year 1823, the superintendent submitted the result of information which he had collected, from which it appeared, that, including Calcutta and the foreign settlements, the population of the several districts comprised in the provincial divisions of Calcutta, Moorshedabad, Patna and Dacca, was computed at that time at 37,500,000 inhabitants.*

In 1817–18 the net charges of the judicial department (after deducting judicial receipts, judicial stamps, and value of convicts' labour) were computed at 60 lacs.

In the secretary's Report, the charges on the 1st of May 1818 are stated to have been 72,17,430; but it is argued that the value of the labour of convicts, estimated at 2,88,000, ought to form an off-set, as well as the revenue arising from judicial stamps, estimated at 5-6ths of the stamp revenue, and calculated (after deducting charges) at 6,53,114 rupees. These sums, together with judicial receipts, amounting to 4,39,688, making in the aggregate 13,80,802, were deducted from the gross amount of the expenses.

In that year the amount realized from the various branches of revenue in the territory subject to the Presidency of Fort William was upwards of ten crores of rupees; and assuming the *bonâ fide* expenses of the judicial department to be 60 lacs, it was shown that those expenses were in the proportion of 6 per cent. of the annual revenue.

In 1824–25 the Revenue was computed at upwards of 11 ½ crore of rupees; and reckoning the expenses† at 67 lacs (after deducting the several items of receipt on the same principle as was assumed in the former calculation), the proportion will be rather less than 6 per cent. of the annual revenue.

The permanent appointment of a fifth judge of the Sudder Dewanny Adawlut, the distinct appointment of a magistrate from that of the judge in some districts, the additional number of joint magistrates which it has been found necessary to employ, especially in the Western provinces, the increase of subordinate establishments, and the judicial charges on account of the Saugor and Nerbudda territories, and Ajmere,‡ not included in the accounts of 1817-18, have combined to cause the excess beyond the expenses of that year.

STATE of the POLICE and ADMINISTRATION of CRIMINAL JUSTICE.

The introductory remarks on this head are applicable to the present time.

The following Abstract Statements are calculated to show how far the police has been successful or otherwise, in the prevention or suppression of the most heinous descriptions of crimes since the year 1818, compared with the last series of the averages entered in the former Memorandum.

LOWER PROVINCES.

	Total Gang Robbery.	Of Wilful Murders.	Of Violent Affrays, attended with Loss of Life.	TOTAL.
Average of each year, from 1813 to 1817 inclusive	339	188	98	625
Ditto of each year, from 1818 to 1824 - -	234	123	30	387

* Population:—The population of the Western and Lower Provinces was assumed, in the former Memorandum, at 45 millions.

† Gross annual amount of expenses of the Judicial Department, on the 1st of May 1825, as stated in the annual books - - - - - - -		83,08,332
Deduct judicial receipts carried to credit in the year 1824/25 - -	3,96,026	
Deduct 5/6ths of the net amount (14,29,359) of stamp duties, after deducting the value (2,33,656) of stamp paper paid to the native commissioners on suits decided by them - - - - - -	9,57,474	
Deduct estimated value of the labour of 16,000 convicts,* at 1/8 per man per mensem - - - - - - - - - - -	2,88,000	
		16,41,500
		66,66,832

‡ Charges for Nerbudda, in 1824/25 - - - - - - -	43,181
Ditto for Saugor - - „ - - - - - - -	38,958
Ditto for Ajmere - - „ - - - - - - -	16,749
	98,888

* The average number in confinement is the same as in 1817/18.

WESTERN PROVINCES.

	1819.	1820.	1821.	1822.	1823.	1824.	1825.
Decoyty and Murder - - -	18	10	14	20	12	19	11
Ditto and Wounding - - -	26	16	10	17	13	22	22
Simple Decoyty - - - -	26	20	15	16	22	28	18
Highway Robbery and other predatory offences, attended with Murder	77	105	89	65	101	97	95
Ditto - - ditto - - with Wounding	320	306	278	177	211	211	267
Murder by Thugs - - - -	10	18	9	27	21	18	19
Wilful Murder and Homicide - -	271	216	248	199	232	214	194
Violent Affrays, attended with loss of Life	57	82	97	82	53	79	42
Robberies and Thefts exceeding 50 Rupees - - - - - -	1,694	1,781	1,617	1,723	1,672	1,768	1,782
TOTAL - - -	2,499	2,554	2,377	2,326	2,337	2,456	2,450

N. B.—This Statement differs in some respects from the form adopted in the former Memorandum, as it has not been practicable, without much research, to distinguish the number of Highway Robberies by Horsemen from those committed by Footpads.

In the year 1818, the total number of persons convicted and punished for minor offences by the magistrates and their assistants, amounted to - - - - - - 29,893

In 1825 the number was, including those punished by the law officer - - 40,530*

The number convicted of more heinous crimes, and punished by the courts of circuit, or by the Nizamut Adawlut, was in the former year - - - - - 3,371

And in the latter - - - - - - - - - - - - - - - 3,754†

The total number of convicts or prisoners in confinement for criminal offences, in all the districts of these provinces, amounted at the close of the year 1818 to 23,880

And at the close of 1825 to - - - - - - - - - - - - 25,694

From the year 1818 to the end of 1825, the Regulations‡ noted at the foot of the page have been enacted for the improvement of the administration of the police and of criminal justice. The following are particularly deserving of notice.

By Regulation VI. 1819, the public ferries were placed under the control of the magistrates, (subject to the orders of Government), and the collections derived from them declared applicable to "the maintenance of an efficient police, the safety and convenience of travellers, the facility of commercial intercourse, and the expeditious transport of troops." Those objects being accomplished, the surplus was appropriated to "the repair or construction of roads, bridges and drains, the erection of seraees, or other works of a like nature."

By Regulation III. 1821, the assistants to the magistrates, reported duly qualified, may be invested with special powers to inflict punishment upon offenders in cases referred to them for trial, to the extent of six months imprisonment, with corporal punishment not exceeding 30 rattans, or with a fine of 200 rupees, commutable to further imprisonment for six months.

The magistrates were at the same time empowered to refer petty criminal cases for trial to the Hindoo and Mahomedan law officers, who were vested with similar powers to those exercised by assistants to the magistrates by Section xx. Regulation IX. 1807.

The

* Western Provinces - - - - - - - - 15,113
Lower ditto - - - - - - - - - 25,417
TOTAL - - - 40,530

† Western Provinces, Court of Circuit - - - - 1,204
Lower ditto - - - ditto - - - - - - 1,551
Nizamut Adawlut, for both Provinces - - - - 999
TOTAL - - - 3,754

‡ Regulation III. VI. VII. - - - - - - - 1819.
— II. III. IV. VII. - - - - - - 1820.
— III. IV. - - - - - - - - 1821.
— I. IV. V. VIII. IX. X. - - - - - 1822.
— II. IV. - - - - - - - - 1823.
— VI. X. XV. - - - - - - - 1824.
— I. IV. XII. XVI. XVII. - - - - 1825.

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

The rules requiring that petitions of appeal from the assessment fixed by the punchayet, for the maintenance of chokeedars should be presented on stamp paper, were rescinded, and judges of circuit were directed to report to Government if the assessment appeared to them in any respects too high or essentially defective.

Provisions were made for preventing the subjects of foreign States under suspicious circumstances, from entering the British territories in large bodies.

By Regulation IV. of the same year, provisions were made for vesting the collectors of the land revenue in certain cases with the powers of magistrate or joint magistrate, and for employing the latter in the collection of the revenue.

By Regulation I. 1822, persons concerned in affrays, unattended with homicide, severe wounding, or other aggravating circumstance, were declared punishable by the magistrates and joint magistrates. In cases of a more serious nature the offenders must be committed to the court of circuit; and by Regulation II. of 1823, the court are prohibited from passing a milder sentence on persons convicted of such offences than five years imprisonment, with or without labour and corporal punishment. If that sentence is deemed too severe, the trial must be referred to the Nizamut Adawlut.

By Regulation X. 1824, the rules regarding the offer of pardon were simplified and rendered more practically useful; the magistrates were authorized, without previous reference to any authority, to tender a pardon to persons supposed to have been concerned in any crime, with a view to elicit information; but if offered in order to obtain evidence, the previous sanction of the superintendent of police must be applied for.

By Regulation XV. 1824, the magistrates and joint magistrates are authorized to inquire into, and decide summarily disputes regarding the possession of land, and their award is conclusive (if conformable to the Regulations), until altered by regular proceedings in the civil court. There is every reason to believe that this and Regulation I. of 1822, and Regulation II. of 1823, have materially checked the offence of affrays.

By Regulation IV. 1825, the criminal courts were empowered to take recognizances and sureties to keep the peace.

By Regulation XII. of the same year, the use of the corah as an instrument of punishment was discontinued; females were exempted from corporal punishment by stripes; rules were enacted for the punishment of contempt of court; and the practice of the Nizamut Adawlut, of requiring the concurrence of two judges in all sentences of death, was confirmed by law.

By Regulation XVI. of the same year, with a view to relieve the Nizamut Adawlut from the numerous trials referred to that court, and to expedite the administration of criminal justice, the courts of circuit were empowered, under certain restrictions, to pass sentence extending to imprisonment with hard labour for 14 years in banishment, and 39 strokes of a rattan, on persons convicted of robbery by open violence.

And, lastly, rules were enacted by Regulation XVII. of the same year, for regulating the succession of gaol deliveries at the several stations of the magistrates and joint magistrates, in the Western and Lower Provinces.

Civil Justice.

The Regulations passed from 1818 to 1825 inclusive, affecting the administration of Civil Justice, are noted at the foot of the page;* of which the following are worthy of notice.

By Regulation IX. 1819, the courts of Sudder Dewanny Adawlut and provincial courts of appeal, were authorized to admit special appeals whenever from a perusal of the decree of the lower court, there might appear strong probable ground, from whatever cause, to presume a failure of justice. Experience, however, showed that the great latitude allowed by Clause 2, Section ii. of that Regulation, was productive of a large increase of appeals, which impeded the trial and decision of other more important causes, and the rule was afterwards rescinded by Section iv. Regulation II. 1825. The remaining provisions of Regulation IX. 1819, empowering the lower court to recommend the admission of a special appeal, and authorizing the Sudder Dewanny Adawlut to direct the provincial courts to admit such appeals in the event of their declining to do so, were confirmed.

By Regulation II. of 1821, the zillah and city judges were relieved from a portion of the miscellaneous business which theretofore devolved upon them. The moonsiffs were empowered to try civil suits for money or personal property not exceeding 150 rupees. The judges were directed to encourage individuals to sue for the recovery of arrears of rent in the moonsiff's courts, in preference to adopting the summary process allowed by Regulation V. 1812. The Sudder Dewanny Adawlut were empowered to vest the sudder ameens

* Regulation V. - - - - - - - - - 1818.
— IX. - - - - - - - - - 1819.
— II. - - - - - - - - - 1821.
— VII. - - - - - - - - - 1823.
— III. IV. XI. XIII. XIV. - - - - - 1824.
— II. V. VII. VIII. - - - - - 1825.

Appendix, No. 5. (8.) Memorandum on the Expense and Operation of the *Bengal* Judicial Establishment.

ameens with special powers to try civil suits to the amount of 500 rupees. The zillah and city judges were authorized to employ their registers and sudder ameens in the execution of decrees passed by sudder ameens and moonsiffs. The provincial courts were directed in certain cases to execute their own decrees as well as the decrees of the Sudder Dewanny Adawlut. The zillah and city judges were declared competent to refer any summary suits to their registers specially empowered, and the rules allowing registers to receive fees on suits decided by them were abolished, and their salaries were fixed in lieu of such fees.

By Regulation VII. 1823, all civil servants were prohibited from borrowing money from persons subject to their official authority and influence.

By Regulation XIII. 1824, the rules authorizing the sudder ameens to receive fees on the decision of suits were abolished, and fixed salaries were allowed to them instead, and further provisions were enacted with a view to encourage the amicable adjustment of civil suits.

By Regulation XIV. the collectors of land revenue are empowered to determine in a summary manner, subject only to a regular suit, all claims for arrears or exactions of rent which may be referred to them by the zillah and city judges. It may be here also mentioned, that collectors and other officers employed in the collection of the Land Revenue, are vested by Regulation VII.* 1822, and Regulation IX. 1825, with very extensive powers in summarily defining and settling the rights of various classes of persons possessing an interest in land, subject to appeal to the Revenue Boards, but not liable to be altered by the courts of justice, excepting by a regular suit.

See Section 11, 12, 14, 16, 17, 18, 19, and 20.

By Regulation VII. 1825, the rules for the execution of decrees were explained and amended.

By Regulation VIII. 1825, judicial officers are prohibited from employing their private servants in the discharge of their public duties, or public servants in the performance of their private business.

The following Statement shows the total number of regular Suits and Appeals depending before the several courts both in the Lower and Western Provinces, on the 1st of January 1815 and 1st of January 1819 (as noticed in the former Memorandum), and the number depending on the 1st of January 1826:

BEFORE THE	On the 1st of Jan. 1815.	On the 1st of Jan. 1819.	On the 1st of Jan. 1826.	Increase, compared with 1819.	Decrease, compared with 1819.	Remarks.
Sudder Dewanny Adawlut and Provincial Courts	4,245	3,005	3,944	939	—	
Zillah Judges and Registers	30,924	18,485	36,391	17,906	—	
Sudder Ameens and Moonsiffs	99,700	59,716	91,105	31,389	—	
TOTAL	1,34,869	81,206	1,31,440	50,234	—	

MEMORANDUM of the TOTAL NUMBER of REGULAR SUITS, whether in ORIGINAL or APPEAL, depending in the WESTERN and LOWER PROVINCES on the 1st of January 1820–21–22–23–24–25–26.

	1st Jan. 1820.	1st Jan. 1821.	1st Jan. 1822.	1st Jan. 1823.	1st Jan. 1824.	1st Jan. 1825.	1st Jan. 1826.
Sudder Dewanny Adawlut	340	337	319	317	382	398	425
Provincial Courts	2,449	2,429	2,587	2,763	2,846	3,394	3,519
Zillah and City Judges	10,883	13,951	17,292	20,348	21,841	23,169	24,693
Ditto Registers	10,771	11,793	11,551	11,040	10,112	10,596	11,698
Sudder Ameens	27,244	30,206	28,131	30,517	31,600	33,756	36,101
Moonsiffs	39,062	44,677	43,996	47,241	50,085	52,337	55,004
TOTAL	90,759	1,03,393	1,03,876	1,12,226	1,16,866	1,23,650	1,31,440

Appendix, No. 5.

Extent and Operations of the Judicial Establishments of the Three Presidencies.

STATEMENT, showing the TOTAL NUMBER of REGULAR SUITS and APPEALS disposed of in the several COURTS during the Years 1818 and 1825.

	Disposed of in 1818.	Disposed of in 1825.	Average Period which would elapse, as calculated in 1818, between the Institution and Decision of Suits in each Court.	Ditto - Ditto as calculated in 1825.
Sudder Dewanny Adawlut -	144	99	2 years 1 month	4 years 3 months.
Provincial Courts - -	1,839	1,155	1 year 6 months	3 years 15 days.
Zillah and City Judges - -	6,254	9,404	1 year 4 months	2 years 7 months and 15 days.
Registers - - - -	11,269	5,195	9 months - -	2 years 3 months.
Sudder Ameens - - -	42,378	44,330	7 months - -	9 months 15 days.
Moonsiffs - - - -	77,326	1,06,321	5 months - -	Nearly 6 months.
TOTAL - - -	1,39,210	1,66,504	—	—

During the period which has intervened between the years 1818 and 1826, no alteration as taken place in the Regulations calculated to affect the computation assumed in the ormer Memorandum of the expense attending litigation in its several grades. The Abstract* f that computation is given at the foot of the page, and, as was then stated, "includes all uthorized costs and expenses of every description of both plaintiff and defendant, the in- titution fee, the fees on exhibits and processes of all kinds, stamp paper, pleader's fees, llowance to witnesses, &c. &c., and are charged in the decree to the plaintiff or to the efendant, or divided between the parties according to the nature of the case, and with eference to the party in whose favour judgment is given."

NOTE:

n continuation of the MEMORANDUM prepared by Mr. *Bayley* in the year 1819, and by Mr. *Shakespear* in 1826, on general subjects connected with the Judicial Administration.†

CALCULATING the net judicial charge on the principle assumed‡ in the former memorandum, the amount would be 65,00,000.

The gross amount of the expenses of the Judicial department was stated in the annual books

* Expense in Suits below 500 rupees - - - - - - 22 Pr Ct
Ditto - - from 500 to 5,000 - - - - - - 16 -
Ditto - - above 5,000, if tried in the Provincial Court - 9 -
Ditto - - if tried in the Sudder Dewanny Adawlut - - 6 -

† COMPUTED AMOUNT of REVENUE of *Fort William*, and of NET JUDICIAL CHARGES.

	REVENUE.	CHARGES.	PER CENTAGE.
1817/18 - - - -	10,12,14,106	60,00,000	About 6 per cent.
1824/25 - - - -	11,65,31,737	67,00,000	- ditto
1828/29 - - - -	12,39,03,769	65,00,000	5 ¼ ditto

‡ Gross Annual Amount of Expense of the Judicial Department on the 1st May 1828, as stated in the Annual Books - - -		89,84,717
Deduct Judicial Receipts carried to Credit in the year 1828/29 - - - - - - - - -	4,59,095	
Ditto $\frac{5}{8}$ths of the net Amount (26,32,020) of Stamp Duties, after deducting the value (5,05,433) of stamp paper paid to the Registers and native Commissioners, in lieu of Fees on Suits decided by them	16,96,156	
Ditto estimated Value of the Labour of 18,000 § Convicts at 1. 8. per man per mensem - - -	3,24,000	
		24,79,251
NET CHARGE - -		65,05,466

§ The average number in confinement on the 31st December 1827/28 is 28,000; and if we exclude 0,000, being little more than $\frac{1}{3}$d of these as not subject to labour on various accounts, there will remain 8,000.

books on the 1st of May 1825 to have been 83,08,332. The increase since that time is chiefly to be ascribed to the separation of the offices of judge and magistrate in some districts, and by the appointment of fifth judges in the provincial courts of Calcutta and Benares, in consequence of the heavy arrears of business in those courts. Within this period also, a new district station was formed at Futtehpore.

The following Abstract Statements are given in continuation of the former Memorandum, showing the average number of crimes of the most serious nature compared with the former periods.

LOWER PROVINCES.

—	Total Gang Robbery.	Of Wilful Murder.	Of violent Affrays, attended with Loss of Life.	TOTAL.
Average of each Year, from 1813 to 1817 inclusive	339	188	98	625
Ditto of each year from 1818 to 1824	234	123	30	387
Ditto - ditto - - 1825 to 1828	170	105	22	297

WESTERN PROVINCES.

	1826.	1827.	1828.
Decoity and Murder	12	20	12
Ditto - and Wounding	35	14	13
Simple Decoity	37	14	20
Highway Robbery and other predatory Offences, attended with Murder	132	95	83
Ditto - with Wounding	344	251	234
Murder by Thugs	58	38	23
Wilful Murder and Homicide	215	206	234
Violent Affrays, attended with Loss of Life	59	54	64
Robberies and Thefts, exceeding 50 rupees	1,914	1,815	1,581
TOTAL	2,806	2,507	2,264

In the year 1818, the total number of persons convicted and punished for minor offences by the magistrates and their assistants amounted to - - - - 29,893
In 1825 to - - - - - - - - - - - 40,530
In 1828 to - - - - - - - - - - - 37,996*

The number convicted of more heinous offences by the courts of circuit and Nizamut Adawlut was, in 1818 - - - - - - - - - - 3,371
In 1825 - - - - - - - - - - - 3,754
And in 1828 - - - - - - - - - - 2,487†

The total number of convicts or prisoners in confinement for criminal offences in all the districts of these provinces amounted at the close of 1818 to - - 23,880
Ditto 1825 - - - - - - - - - - - 25,694
Ditto 1828 - - - - - - - - - - - 28,457‡

From

* Western Provinces - - - - - - - - - 12,337
Lower - - ditto - - - - - - - - - 25,659
37,996

† Western Provinces, Court of Circuit - - - - - 1,196
Lower - - ditto - - ditto - - - - - - 799
Nizamut Adawlut, for both provinces - - - - 492
2,487

‡ Lower Provinces - - - - - - - - - 15,232
Western ditto - - - - - - - - - - 13,225
28,457

Appendix, No. 5.

From the beginning of 1826 to the end of 1829, the Regulations noted in the margin have been enacted for the improvement of the administration of the police and of criminal justice; the following are deserving of notice.

Regulations:
I. - 1827.
II.
I. - 1828.
VI.
VIII.
I. - 1829.
II.
V.
VI.
VIII.
XII.
XVII.

By Regulation VIII. 1828, the magistrates were empowered, in cases of affray unattended with homicide, severe wounding, or other aggravated circumstances, to punish the offender with imprisonment for one year and a fine of 200 rupees, to be commuted, in default of payment, to a further period of one year.

By Regulation I. of 1829, commissioners of circuit were appointed with powers of judges of circuit and of superintendents of police, on the latter office being abolished.

By Regulation II. of the same year, an appeal to the commissioners of circuit was allowed from decisions passed by magistrates and joint magistrates under Regulation XV. 1824.

By Regulation XVII. of the same year, the practice of suttee was declared illegal and punishable by the criminal courts.

Civil Justice.

Regulations:
I. - 1826.
III.
XI.
III. - 1827.
IV.
V.
V. - 1828.
IX.
III. - 1829.
IV.
VII.
XIII.
XIV.
XVIII.

The Regulations passed from 1826 to 1830, both years inclusive, affecting the administration of civil justice are noted in the margin; of which the following are the most important.

By Regulation XI. of 1826, rules were established for providing a succession of duly qualified persons for the office of Hindoo and Mahomedan law officers in the courts of justice.

By Regulation IV. of 1827, the powers of sudder ameens, under special circumstances, were extended to the trial of suits to the amount of 1,000 rupees, and the restriction regarding the reference of suits to sudder ameens, in which Europeans or Americans are a party, was withdrawn.

Regulation V. of the same year, was enacted for the better management of estates under attachment by orders of the courts of justice.

By Regulation XIII. 1829, the office of superintendent and remembrancer of legal affairs was abolished.

The following Statement shows the total number of regular suits and appeals depending before the several courts of the Lower and Western provinces—

On the 1st of January - - - - - 1815,
Ditto - - - - - - - - 1819,
Ditto - - - - - - - - 1826,
Ditto - - - - - - - - 1829,

BEFORE THE	On the 1st of Jan. 1815.	On the 1st of Jan. 1819.	On the 1st of Jan. 1826.	On the 1st of Jan. 1829.	Increase, compared with 1826.	Decrease, compared with 1826.	Remarks.
Sudder Dewanny Adawlut and Provincial Courts -	4,245	3,005	3,944	4,498	554	—	—
Zillah Judges and Registers -	30,924	18,485	36,391	38,035	1,644	—	—
Sudder Ameens and Moonsiffs - - - - -	99,700	59,716	91,105	97,611	6,506	—	—
Total - - -	134,869	81,206	131,440	140,144	8,704	—	—

Memorandum of the Total Number of Regular Suits, whether in Original or Appeal, depending in the Lower and Western Provinces, on the 1st of January 1826, 1827, 1828, 1829.

	On the 1st of January 1826.	On the 1st of January 1827.	On the 1st of January 1828.	On the 1st of January 1829.
Sudder Dewanny Adawlut - - - -	425	448	469	492
Provincial Courts - - - - -	3,519	3,907	3,854	4,006
Zillah and City Judges - - - - -	24,693	25,666	27,856	27,233
Ditto - Registers - - - - -	11,698	11,666	10,392	10,802
Sudder Ameens - - - - - - -	36,101	34,404	35,036	36,294
Moonsiffs - - - - - - - -	55,004	59,186	60,885	61,317
Total - - - -	131,440	135,277	138,492	140,144

STATEMENT, showing the NUMBER of REGULAR SUITS and APPEALS disposed of in the several COURTS, during the Years 1818, 1825, and 1828.

	Disposed of in 1818.	Disposed of in 1825.	Disposed of in 1828.	Average period which would elapse, as calculated in 1818, between the institution and decision of Suits in each Court.	Average period which would elapse, as calculated in 1825.	Average period which would elapse, as calculated in 1828.
Sudder Dewanny Adawlut - - -	144	99	148	2 years 1 month	4 years 3 months	3 years 4 months.
Provincial Courts -	1,839	1,155	1,236	1 year 6 ditto -	3 ditto 15 days -	3 ditto 3 ditto.
Zillah and City Judges -	6,254	9,404	8,989	1 ditto 4 ditto -	2 yrs. 7 mths. 15 days	3 ditto.
Registers - - -	11,269	5,195	4,427	9 months - -	2 years 3 months	2 ditto 5 ditto.
Sudder Ameens - -	42,378	44,330	44,784	7 ditto - -	9 months 15 days	10 months.
Moonsiffs - - -	77,326	106,321	114,360	5 ditto - -	nearly 6 months -	6 ditto 15 days.
	139,210	166,504	173,944			

Appendix, No. 6.

PREFATORY NOTE

TO

Appendix, No. VI.

THE object in view in the preparation of the following Abstract, was to present a manual, which might be referred to by Members reading the discussions, either on the general principles of the Bengal Code, or on the intent and purpose of particular enactments of local legislation. The arrangement which has been adopted, places under distinct heads the Rules which have been enacted, in succession, on each topic of judicial and revenue administration, from the first promulgation of Lord Cornwallis's code of 1793, to the end of the year 1831, and exhibits the reasons declared for each new enactment, or each modification of a previous law.

When the work was first undertaken, at the desire of the Judicial Sub-Committee, it was intended to confine it to the Regulations for the Administration of Civil and Criminal Justice; but it was found that so much of the duty of the courts had its origin in proceedings more or less connected with the revenue affairs of the provinces, and that so many duties of a judicial character were gradually devolved on the Officers of the Revenue Department, that the Summary would have been very imperfect, and almost useless, if it had not embraced the laws which regulated the powers of those officers, and presented a view of the provisions from time to time made for maintaining the rights of the Government and their subjects in the produce of the soil.

Digests, analyses, and abstracts of the Bengal Code, already exist, but none seemed calculated to supply information with so much readiness and convenience, as it is hoped the present Abstract will be found to do. The valuable work of the late Mr. Harington is in three folio volumes, the first of which was reprinted under his own revision in 1821, but the second and third extend no further than to the year 1817. Most of the other works alluded to, are mere arrangements of the detailed rules actually in force at the time when they were respectively prepared for the use of public officers engaged in carrying them into operation.

The present Abstract does not include any of the enactments which relate exclusively to the commercial department, nor the rules for the collection of the taxes on spirituous liquors, nor those relating to the salt and opium monopolies, or to the coinage at the Company's mints.

Whoever has had occasion to study the Code of Regulations from which this Abstract is prepared, will readily acknowledge that the task which has been performed is one of considerable labour, occasioned by the complexity with which rules relating to different subjects are often thrown together, and to the innumerable references which require to be made from one Regulation to another, in order to form any thing like a methodical arrangement of so much various matter. It is feared that, after all, the task has been but imperfectly executed. It was often difficult to determine how much of any Regulation should be extracted, as exhibiting a principle or a rule of action, and how much should be omitted, as only prescribing the detail of execution. It often happened that a direction which appeared not of sufficient importance to be noticed in its place, was afterwards found to form the subject of a subsequent modification, involving a proceeding of too great importance to be omitted. When the work was completed, the abstractor would gladly have revised the whole, by a careful comparison of the Abstract with each enactment, but time would not allow of such an operation, and he has only to hope, that under the circumstances adverted to, the imperfections of which he is conscious may be pardoned, and that they may not be found such as to deprive the work of utility as a manual of general reference.

R. C.

Appendix, No. VI.

(1.)

ABSTRACT of the REGULATIONS of the *Bengal* Government for the Administration of CIVIL JUSTICE, arranged under appropriate Heads.

LIST.

CIVIL JUDICATURE—LEGISLATION.

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Appendix, No. 6.

Regulations for the Administration of Justice.

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Civil Judicature—LEGISLATION.

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LEGISLATION.

Regulation XX.—1793.

Proposed Regulations, how to be submitted to Government.

Reg. XX. 1793.

The preamble to this Regulation declared it to be important that the Governor-general in Council should be apprized of such general or local Regulations as the magistrates, or any of the civil or criminal courts of judicature, or any of the judges of those courts, might deem it advisable to propose, respecting matters coming within their cognizance; and that it was equally necessary that no such Regulations should be suggested without due consideration. With these views, it was deemed expedient that all such Regulations as might from time to time be proposed by the judges of the inferior courts or by magistrates, should be submitted to the Governor-general in council, with the opinion of the courts of superior jurisdiction upon them.

This enactment accordingly empowered the civil and criminal courts to propose Regulations on matters coming within their respective cognizance.

The draft of any proposed Regulation was to be transmitted through the provincial court of appeal or circuit, who were to forward it to the registrar of the Sudder Dewanny Adawlut or Nizamut Adawlut, with a letter stating their approval, or otherwise, with the grounds of such opinion. If the superior court should approve the proposed Regulation in part only, they were to forward an attested copy of the Regulation as proposed, with a separate draft framed agreeably to their own view of the subject, and with a letter stating their reasons for suggested alterations.

The court of appeal or circuit, or any of the judges of those courts, might likewise propose Regulations, which were to be drafted in the manner prescribed, and all such drafts were to be submitted to Government by the Sudder Dewanny Adawlut or Nizamut Adawlut, with a statement of their approval or disapproval of the draft. In cases of disapproval, the Sudder Dewanny Adawlut or Sudder Foujdarry Adawlut were authorized to submit a draft of a Regulation framed agreeably to their own views of the subject under consideration, with their reasons for any alterations suggested.

The Sudder Dewanny Adawlut and Nizamut Adawlut might also themselves submit to Government drafts of Regulations which they might deem it expedient to propose.

The Governor-general in council would reject or adopt such proposed Regulations, or pass such other Regulations as might appear proper.

Regulation XLI.—1793.

Principles and Authority of the Code of Regulations.—Form in which the Enactments were to be drawn.

The preamble to this Regulation declared it to be essential to the prosperity of the British territories in Bengal, that all Regulations which might be passed by Government, affecting in any respect the rights, persons or property of their subjects, should be formed into a regular code, and printed with translations in the country languages; that the grounds on which each Regulation might be enacted, should be prefixed to it; and that the courts of justice should be bound to regulate their decisions by the rules and ordinances which those Regulations might contain. A code of Regulations framed upon the above principles, would enable individuals to render themselves acquainted with the laws upon which the security of the many inestimable privileges and immunities granted to them by the British Government depended, and with the mode of obtaining speedy redress against every infringement of them; the courts of justice would be able to apply the Regulations according to their true intent and import; future administrations would have the means of judging how far Regulations had been productive of the desired effect, and when necessary to modify or alter them, as from experience might be found advisable; new regulations would not be made, nor existing ones repealed, without due deliberation; and the causes of the future decline or prosperity of the Indian provinces would always be traceable, in the code, to their source. Reg. XLI. 1793.

In conformity with the principles so declared, the Regulation provided that every rule or order that might be passed by the Governor-general in council, regarding the administration of justice; the imposition or levying of taxes, or of duties on commerce; the collection of the public revenue assessed upon the lands; the rights and tenures of the proprietors and cultivators of the soil; the provision of the Company's investment; the manufacture of salt and opium; and, generally, all regulations affecting in any respect the rights, persons, or property of the natives, or of any individuals who should be amenable to the provincial courts of judicature, should be recorded in the Judicial department, and there framed into a Regulation, and printed and published in a form prescribed, and with divisions into sections and clauses.

Ten of the English copies of the Regulations passed annually, and bound up with index, were to be transmitted to the honourable Court of Directors by the two first ships that should be despatched for England after the volumes should have been completed.

In the English drafts of Regulations, the same designations and terms were to be applied to the same descriptions of persons and things, in order that rights, property, tenures, privileges, deeds, courts, process, offices, officers, and generally all persons and things, might be uniformly described by the same designations and terms throughout the Judicial Code.

Every regulation was to be translated into the Persian and Bengal languages, by the Persian translator to the Government, or such other person as the Governor-general in council might expressly appoint for that purpose.

The translator was to be particularly careful to preserve in the translations the same uniformity in the designations and terms applied to persons and things, as was directed with regard to the English code.

The translator was to translate the Regulations into plain and easy language, and in all possible cases to reject words not in common use. As far as might be consistent with the preservation of the true meaning and spirit of the Regulations, he was to adopt the idiom of the native languages, instead of giving a close verbal translation of the English drafts, which would necessarily render the translations obscure, and often unintelligible to the natives.

One part of a Regulation was to be construed by another, so that the whole might stand.

Regulation X.—1796.

Interpretation of Regulations, and provision for remedying Defects in them.

By this Regulation it was enacted, that if a judge of an inferior court, receiving a precept from a superior court, grounded on a Regulation of the Government, should be of opinion that the superior court had misinterpreted the Regulation in question, and if upon the statement of that opinion the superior judge still maintained the same view of the question, in such case the inferior judge was to obey the exigence of the precept, and might then refer the question at issue between them to the Sudder Adawlut, who would pass a final decision thereupon. If the point referred should appear to the Sudder Dewanny Adawlut not to have been sufficiently provided for by the Regulations, they were to submit a new Regulation respecting it, for the sanction of Government. Reg. X. 1796.

Appendix, No. 6.

Regulations for the Administration of Justice.

PART THE FIRST.

CIVIL JUDICATURE.—GENERAL.

(A.)—CONSTITUTION and JURISDICTION of the ZILLAH and CITY COURTS, and GENERAL RULES of PRACTICE in the ZILLAH and other CIVIL COURTS.

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Appendix, No. 6.

(1.) Abstract Regulations for the Administration of Civil Justice.

PART THE FIRST.

CIVIL JUDICATURE—GENERAL.

(A.)

CONSTITUTION and JURISDICTION of the ZILLAH and CITY COURTS, and GENERAL RULES of PRACTICE in the ZILLAH and other CIVIL COURTS.

REGULATION III.—1793.

Establishment, Constitution and Jurisdiction of Zillah and City Courts.

Reg. III. 1793. Dewanny Adawlut. (Rescinded by Sect. ii. Reg. I. 1806.)

THE preamble to this Regulation declared, generally, that the British Government in the establishment of a regular system of Judicial Administration by means of courts acting under known rules and regulations, had in view the preservation to the people of their own laws in matters to which they were applicable, their protection in the free exercise of their religion, and the security of their persons and property. To these ends it was declared, that the Government had determined to lodge its judicial authority in courts of justice, the judges of which should not only be bound by the most solemn oaths to administer the laws and regulations impartially, but should be so circumstanced as to have no plea for not discharging their high and important trusts with diligence and uprightness. It was resolved, that the authority which by the laws and regulations was to be so lodged in the courts, should extend not only to all suits between native individuals, but that the officers of Government employed in the collection of the revenue, in the provision of the Company's investment, and in all other financial or commercial concerns of the public, should be amenable to the courts for acts done in their official capacity in opposition to the Regulations. And further, in order that Government itself, in superintending these various branches of the resources of the state, might be precluded from injuring private property, they had determined to submit the claims and interests of the public in such matters to be decided by the courts of justice according to the Regulations, in the same manner as suits between individuals. With a view to deprive the judges of the courts of the power of delaying or denying justice, the Governor-general in council had determined to frame the constitution of the courts upon such principles as would enable every individual, by the mere observance of certain forms, to command, at all times, the exercise of the judicial power of the state thus lodged in the courts, for the redress of any injury which he might have sustained in his person or property. A system for the administration of the laws and regulations so constituted, would, it was observed, contain an active principle, which, allowing for the various characters and dispositions of those who might be employed in the immediate conduct of it, must continually operate to the important end of compelling men to be just in their dealings; bringing into action that spirit of industry which is implanted in mankind, and which exerts itself in proportion as individuals are certain of enjoying its fruits, dispensing prosperity and happiness to the great body of the people, and increasing the power of the state, which must be proportionate to the collective wealth which, by good government, it should enable its subjects to acquire.

By this Regulation, there were established twenty-three courts of civil justice, to have jurisdiction over that number of zillahs in Bengal, Behar and Orissa; and three similar courts in the cities of Moorshedabad, and Dacca in Bengal, and Patna in Behar. Each zillah and city court was to be superintended by one English judge, being a covenanted civil servant of the East India Company, who was to hold his court not less than three days in every week. All natives, and other persons not European British subjects, were declared amenable to the jurisdiction of the zillah and city courts. The courts were empowered to take cognizance of all suits and complaints respecting the succession or right to real or personal property, land rents, revenues, debts, accounts, contracts, partnerships, marriage, caste, claims to damages for injuries, and generally all suits of a civil nature, if the property sought to be recovered, or the defendant against whom the suit was brought, were actually within the limits of the court's jurisdiction. The zillah and city courts were declared to have jurisdiction over all European British subjects not being officers of the King's or Company's army, or civil servants of the Company, so far as not to allow them to reside within their respective jurisdictions at a greater distance from Calcutta than ten miles, unless they executed a bond, rendering themselves amenable to the courts in suits for sums not exceeding 500 rupees.

Nuddea, Beerbhoom, Burdwan, Midnapore, 24 Pergunnahs, Jessore, Moorshedabad, Boglepore, Rajeshahee, Purneah, Dinagepore, Rungpore, Cooch Behar, Sylhet, Dacca Jelalpore, Momensing, Tipperah, Chittagong, Behar Proper, Shahabad, Sarun, Tirhoot, Ramgur.

The European and native officers of Government in the various departments of administration, were declared amenable to the courts for acts done in their official capacity in opposition to regulations duly enacted. If the act complained of had been done under any special order of Government, or of the Board of Revenue or of Trade, the Government were to be the defendants.

V. page 689.

No suit was to be instituted in one court for a matter concerning which a suit had already been instituted in another; nor on a matter already decreed by a former competent jurisdiction. Questions of succession to real property, were to be adjudged so that the rights of all sharers in such property should be judicially determined.

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Regulations for the Administration of Justice.

The courts were prohibited from hearing any suits in which the cause of action should have arisen previously to the 12th August 1765.* Suits were declared not cognizable if not instituted within twelve years from the time when the cause of action arose, unless some recognition of the debt by the defendant within that period could be shown, or unless the plaintiff had been precluded from seeking redress by minority or other good and sufficient cause to be approved by the court. An appeal was declared to lie to the provincial courts from the decisions of the zillah and city courts, in all suits or matters whatsoever. In cases for which no specific rule should exist, the judges were directed to act according to equity, justice and good conscience.

Regulation IV.—1793.

Practice of the Civil Courts in the Admission and Trial of Suits.

Reg. IV. 1793.

This Regulation was enacted to lay down the general rules for the institution and trial of civil suits in the zillah and city courts, and for the practice of those tribunals.†

In the trial of suits, no person was to be permitted to do any act, or to be heard in any stage of a cause, except the plaintiffs or defendants, or their respective vakeels, or witnesses. The pleadings of the parties were to be in writing, and to consist of, 1st, the plaint, which was to state precisely the matter of complaint, and the value of the property sought to be recovered; 2d, the answer; 3d, the reply; and, 4th, the rejoinder. If the plaintiff or defendant should have omitted to insert any thing material to the suit in the plaint or answer, one supplemental pleading of each kind, but no more, was to be admitted by the court. The pleadings were to be written, at the option of the parties, in Persian, Bengalee, or Hindustani.

As soon after the pleadings had been completed as the business of the court would permit, the written evidence was to be received and filed; then the witnesses were to be examined on oath, *vivâ voce*, in open court, and their evidence was to be reduced into writing in one of the languages above mentioned.

After due consideration of the pleadings and evidence, the judge was to give judgment according to justice and right, and to order costs to be paid to the party in whose favour the decree should be made. The court were then to cause their decree to be carried into execution either on the property, or person, of the party against whom judgment had been given; if the defendant was to be imprisoned at the suit of the plaintiff, the court were to order an allowance to be made to him, by the plaintiff, of not less than one nor more than four anas‡ per day. Suits not prosecuted for six weeks, were to be dismissed. If a witness should be guilty of perjury in any cause before the court, the judge was to commit him for trial by the court of circuit.

16 anas equal to rupee.

In suits regarding succession, inheritance, marriage, and caste, and all other religious usages and institutions, the Mahomedan law with respect to Mahomedans, and the Hindoo law with respect to Hindoos, was to govern the decisions; and in such cases the Mahomedan and Hindoo law officers of the court were to expound the law. References to them were to be made, and their answers were to be received, in writing.

The decrees were to contain the name of every witness examined, the title of every exhibit read, and a statement of the amount or value of the money or property adjudged. A copy of the decree, duly certified and sealed, was to be tendered to each of the parties within ten days after it had been passed.

The Regulation contains a variety of rules of practice, especially concerning the attendance of witnesses, punishments for contempt, and other details.

Regulation XII.—1793.

Appointment of Law Officers in the Courts of Judicature.

Reg. XII. 1793.

The preamble to this Regulation stated it to be essential to the due administration of justice, that the law offices in the courts of judicature should be held by men of integrity, well versed in the laws, and that they should be so constituted as to induce duly qualified persons to seek and retain them, and to discharge their duty with uprightness. It was further stated to be necessary, that such officers shuld be subject to penalties for misconduct.

The Regulation, with these views, enacted, that the appointment of the law officers of the several courts should be vested in the Governor-general in council, and they were declared not removable except on proof of corruption, incapacity or gross misconduct. Persons to be appointed were required to be well versed in the laws, and of unblemished moral character; they were to be sworn to the faithful discharge of their duty, and to be liable to prosecution before the civil and criminal courts for alleged misconduct or extortion. An appeal was to lie to the Sudder Adalut from decisions passed against law officers by the lower courts; and final decrees against them were to be reported to the Governor-general in council, to whom was reserved the power of either simply dismissing the offenders from office, or of further declaring them incapable of ever exercising any employment under the Government.

Regulation

* The date of the grant of the Dewanny to the East India Company.

† The principles of these Rules, as far as they could apply, were extended, by subsequent enactments, to the higher Courts exercising original jurisdiction, as well as to those of inferior authority, viz. those of Registrars, and of native Commissioners of various degrees.

Regulation XIII.—1793.

Appointment and Duties of the Ministerial Officers of the Court of Judicature.

This Regulation provided for the appointment and prescribed the duties of the European and native ministerial officers of the courts of justice. The European officers, i. e. registrars and assistants, being covenanted servants of the East India Company, were to be appointed by the Government. The native officers were to be appointed by the courts to which they were attached. Reg. XIII. 1793.

The registrars and assistants were to perform the duties prescribed to them by the judges, both in the civil and criminal jurisdiction of the courts, and were to take an oath of office; the chief native officers were likewise to be sworn to the administration of their duties. The judges of the zillah and city courts were authorized to refer to their registrars, for trial and decision, suits for property, real and personal, not exceeding 200 rupees in value. The registrars for that purpose were to sit in the judge's court, when the judge himself was not sitting; the registrars' decrees were not to be of force until countersigned by the judge. Ministerial officers were to be amenable to the civil courts on charges of corruption or extortion; the course of proceeding against them on such charges is detailed in the Regulation.*

Regulation XV.—1793.

Prescribing the Rates of Interest to be allowed by the Courts in their Decrees.

This Regulation fixed the rates of interest which the courts of justice were permitted to decree; as follows, Reg. XV. 1793.

In suits of which the cause had arisen before the 24th March 1780:†

On sums not exceeding 100 rupees, 37½ per cent per annum.
„ - - exceeding 100 „ 24 „ - - „

If the cause of action had arisen between the abovementiond date and 1st January 1793,

On sums not exceeding 100 rupees, 24 per cent per annum.
„ - - exceeding 100 „ 12 „ - - „

If the cause of action had arisen on or after the 1st January 1793, the courts were not to decree more than 12 per cent per annum.

The courts were not to decree a greater sum for interest than the amount of the principal; nor any interest on intruments executed after the 28th March 1780, which should specify a higher rate of interest than those above stated. The Regulation contains special rules regarding mortgages, covenanting the usufruct to the mortgagee.

Regulation XVI.—1793.

Reference of Suits to Arbitration.

The preamble recited, that the Regulations for the administration of justice, passed on the 27th of June 1787, empowered the courts to refer‡ certain suits to the decision of one person, without the consent of either of the parties; that this rule deprived the parties in such suits of the benefits of having their claims tried by the regular tribunals; and was inexpedient, as it vested the judges with a discretionary power of committing the administration of the laws to any person (with certain exceptions) whom they thought proper. No provisions were made in those Regulations for determining differences of opinion that might arise between the arbitrators, or for completing the award in the event of its not being delivered within the limited period. The awards in suits referred to arbitration were consequently often protracted, from disagreements between the arbitrators, or other causes, and the suits were frequently brought again before the courts for decision. These defects in the Regulations were productive of much inconvenience and expense to the parties, and the good effects intended to be produced by referring disputes to arbitration were always liable to be counteracted. Reg. XVI. 1793.

With the view therefore to promote the reference of disputes of certain descriptions to arbitration, and to encourage people of credit and character to act as arbitrators, the following rules were enacted:

In suits concerning disputed accounts, partnerships, debts, doubtful or contested bargains, or non-performance of contracts, in which the cause of action should exceed 200 rupees, the courts were to recommend to the parties to submit to arbitration. If the parties consented, they were to nominate, or, with their consent, the court might nominate one or more persons to decide the case as arbitrator; but if the persons chosen declined to act, the judge

* By Regulation III. 1827, the course of proceeding for the recovery of money or property extorted or corruptly taken by native public officers and servants, was modified in some particulars, and it was declared, that whenever money or other property paid into or deposited in Court, should be embezzled, the amount or value thereof should be refunded to the parties who had deposited the same, without reference to the solvency or otherwise of the defaulter or his surety.

† The date of one of the earliest Codes for the administration of justice. *See* Col. Dig. Regulations, Vol. 3. p. 14.

‡ Article 26, referring to Article 26 of the Regulations 5th of July 1781. *See* Col. Dig. Regulations, Vol. 3. 57-102.

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judge was to decide the case himself, or refer it to his registrar. The parties were to execute arbitration bonds, and a time was to be limited for the delivery of the award; the required witnesses were to be summoned by and sworn by the court; the court might enlarge the time for their final award, at their discretion; the award of the arbitrators was to be carried into execution as a decree of the court; the award was not to be set aside, except on proof of gross partiality or corruption.

Provision was made in this Regulation, for referring disputes between persons of the household of the Naib Nazim of Bengal, to be heard and decided by His Highness; and subsequent Regulations* direct the style of address to His Highness.

* Reg. XIX. 1805. — XVI. 1806.

Regulation XVIII.—1793.

Records and Reports.

Reg. XVIII. 1793.

With a view of guarding against injuries by the loss of judicial records, as well as to facilitate reference to acts done by the courts, and to provide that periodical reports of the business performed, should be made by the inferior to the superior courts, native keepers of the records were ordered to be appointed in each of the courts of judicature, whose duty it should be both to preserve the records from injury, and to make entries of all documents, pleadings, exhibits, &c. entered or produced in court, each page of the register to be signed by the registrar.

Monthly reports of the causes decided in each zillah court, and half-yearly reports of depending causes, were to be made to the provincial and sudder courts, and similar reports by the provincial court to the sudder court. Half-yearly reports of the suits decided by the Sudder Dewanny Adawlut, were to be forwarded by them to the Government, for transmission to the Court of Directors.

Regulation XXXVI.—1793.

Registry of Deeds.

Reg. XXXVI. 1793.

This Regulation was enacted to give security to the titles and rights of persons purchasing real property, or receiving such property in gift, or advancing money on the mortgage of it, or taking it on lease, or other limited assignment; to prevent individuals being defrauded by buying, or receiving in gift, or lending money on mortgage, or taking on lease any such property that might have been so previously disposed of or pledged; to afford persons means of obviating, as far as might be practicable, litigation respecting the authenticity of their wills, or any written authority they might grant to their wives to adopt sons after their death; and that individuals might be able to provide against any injury to their rights or property, by the loss or destruction of deeds relating to transactions of the nature of those above specified. An office was to be established in each zillah and city, under the superintendence of the registrars of the zillah and city courts, for the registry of deeds of sale, gift and mortgage, leases of assignments, wills, &c.; any such deed on being produced before the registrar, and authenticated by proper testimony, was to be copied into the registry book, and the copies attested by the parties or their representatives. All deeds executed after the 1st January 1796, if registered, were to be received in evidence, in preference to those not registered, unless there was reason to suspect fraud or collusion. The registrar was remunerated by a fee of 2 rupees for every deed registered, 1 rupee for every copy given, and half a rupee for every search.†

Regulation XXXIX.—1793.

Appointment and Duties of Kazees.

Reg. XXXIX. 1793.

This Regulation related to the appointment of head kazee,‡ and of the kazees stationed at the cities and principal towns, and in the districts, for the purpose of preparing and attesting deeds, and performing marriages and other ceremonies described by the Mahomedan law. It was declared necessary that these offices should be filled by persons of good character and legal knowledge, and that they should not be removable unless for proved incapacity or guilt.

The Regulation accordingly provided, that those officers should be appointed by the Governor-general in Council; that the subordinate kazees should be recommended by the head kazee, as men of character and legal knowledge. Kazees misconducting themselves, were to be reported to the Government by the judges of the courts of judicature; they were further declared liable to be sued in the courts, for undue practices in the discharge of their duty.

Regulation

† By Regulation IV. 1824, provision was made for the due execution of the office of Registrar of Deeds, in the event of the absence of the Registrar of the Zillah Court, without having appointed a deputy.

‡ Under the Mahomedan Government, the Kazees executed the functions of judges; but their judicial powers were withdrawn on the establishment of Courts of Justice by the British Government. Their authority in religious and ceremonial matters was continued. The head kazee was alone attached *ex officio* to the Sudder Dewanny and Foujdarry Adawlut, and was at once the chief law officer of those courts, and the head over the district and town kazees.

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Regulation XLVI.—1793.

Admission of Paupers to sue in the Civil Courts.

Reg. XLVI. 1793. (Rescinded by Sect. ii. Reg. XXVIII. 1814.)

The object of this Regulation was to enable persons who were unable to bear the expenses of a law suit, to sue for the recovery of their rights as paupers, without payment of fees. The poverty of the party was to be proved on oath by two witnesses, whereupon the court were to admit the pauper, on his producing two sufficient sureties for his appearance whenever required by the court.

In the event of the suit proving frivolous or vexatious, and of the plaintiff's not being able to pay his fees and costs, the court might commit him to prison for a time not exceeding three months; and if the sureties failed to produce him to be so dealt with, they might themselves be committed for the same time. A pauper suitor becoming afterwards possessed of property, might be proceeded against for his fees and costs. The vakeels of the courts were permitted to undertake the suits of paupers; if the pauper succeeded, the vakeel was to be paid his costs. If the pauper could not prevail on any vakeel to undertake his suit, it was competent to the court, on sufficient grounds, to assign one of the vakeels to perform that duty.

Regulation XLIX.—1793.

Courts to reinstate Landholders, &c. by Summary Process, on proof of violent Dispossession.

Reg. XLIX. 1793.

The preamble to this Regulation stated that instances frequently occurred, of proprietors and farmers of land, dependent talookdars, under-farmers and ryots, seizing or ordering their agents and dependents to take possession by force of disputed land or crops, under the pretext of their having a claim thereto; and that affrays often ensued in consequence, which were generally attended with bloodshed, and not unfrequently with the loss of many lives on both sides. With a view to prevent such highly criminal proceeding, this Regulation prohibited persons having claims to disputed lands or crops in the possession of others, from attempting to seize them by force; and it directed that they should prefer their claim before the civil court of the zillah, whereupon the judge was immediately to institute a summary proceeding, taking evidence of the fact of dispossession, and without inquiry into the merits of the dispossessors claim, should cause the disputed land or crops to be restored to the complainant, and all damage done to be made good to him, with equitable costs. The Regulation further enacted, that persons guilty of killing or wounding others, either in taking or recovering possession, should be committed for trial before the criminal courts, and that in certain aggravated cases, the disputed property should be forfeited to Government.

Regulation VIII.—1794.

Powers of Registrars to pass Decrees.

Reg. VIII. 1794.

See Reg. XII. 1793. "Ministerial Officers."

The preamble to this Regulation stated that the provisions made for reference of petty suits by the judges to their registrars for decision had not proved effective, in consequence of its being required that the registrars' decrees should be always countersigned by the judge, which provision rendered it necessary that the judges should revise the proceedings before they could render themselves responsible for the judgment by affixing their signatures. The present Regulation, therefore, annulled that part of the former Regulation, and declared the decision of the registrar final in all suits not exceeding 25 rupees, vesting, however, a discretionary power in the judges to revise their decisions in any instances in which they might appear to them obviously unjust or erroneous, and to pass such decree as they might deem equitable. In all suits above 25 rupees, an appeal was to lie from the decision of the registrar to the provincial court. The decisions of the zillah and city judges were likewise declared final to the extent of 25 rupees.

With a view of further relieving the zillah and city courts in the examination of long and intricate accounts in suits respecting land rents or revenue, judges were empowered to refer such accounts for adjustment and report, to the collectors, forwarding, if necessary, the parties or their vakeels to the collectors to be examined. Judges, however, were prohibited from referring to those collectors, accounts relating to suits in which such collectors, or any of their public officers, or private servants, or the Government, should be parties.

Regulation XXXVI.—1795.

Appeals from Registrars and Native Commissioners.

Reg. XXXVI. 1795.

It being found that the time of the provincial courts was very inconveniently occupied in hearing appeals from the registrars under the foregoing provisions, and that the ends of justice would be sufficiently attained by allowing one appeal from the decisions of registrars as well as from native commissioners, it was enacted by this Regulation, that an appeal should lie to the zillah judge from all decisions of the registrar for sums exceeding 25 rupees. The judgment passed on such appeals, as well as those passed on appeals from decisions of the native commissioners, by the zillah judges, were declared final.

Regulation XXXVII.—1795.

Reports to the Sudder Dewanny Adalut of Work performed by the subordinate Courts.

Reg. XXXVII. 1795. (Rescinded by Sect. ii. Reg. VII. 1829.)

By this Regulation it was directed, in order the better to enable the Sudder Dewanny Adalut to form a judgment of the progress made by the zillah and provincial courts in determining

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determining the suits before them, that the registrar of the Sudder Dewanny Adalut should submit to the court, at their first meeting in every month, a general report, formed from the abstract registers, of suits decided and pending before the several courts of civil judicature.

Regulation IV.—1796.

Provision for the Absence of Judges from their Courts.

Reg. IV. 1796.

This Regulation directed the mode in which judges should obtain leave of absence from their courts, which they were never to quit without the special leave of the Government, except in emergent cases of indisposition. The registrars on the spot were prohibited from performing any functions but those of a ministerial nature, or such as circumstances may render indispensably necessary, without special appointment and authority from the Government.

Regulation XIII.—1796.

Regarding the execution of Decrees pending Appeals.

Reg. XIII. 1796.

It had been provided by the Regulations of 1793, that in cases of appeal from decisions of the zillah or provincial courts, if the suit was for land or other real property, execution of the decree was to be stayed pending the appeal, on the appellant's furnishing security in a sum equal to the amount of one year's produce of the said real property; but if the suit was for personal property, the court were permitted to carry their decree into execution, on sufficient security being given by the respondent.

The present Regulation declared that the latter provision had been found objectionable, since it often occurred that a decree could not be enforced without a sale of property or attachment of the person, both of which were liable to objection, while there was a possibility of the judgment passed in the first instance being reversed or qualified on the appeal. The present Regulation therefore applied the rule regarding real property to decisions in cases of personal property; and to prevent its abuse, it ordered that interest at the rate of 12 per cent per annum should be allowed on sums adjudged by the decree appealed from, if that decree should be confirmed.

Litigious appellants were to be punished by fine.

Regulation I.—1798.

Mortgages in Behar, with right of Possession after a certain time, how to be dealt with.

Reg. I. 1798.

The preamble to this Regulation, stated that it had been long a prevalent practice in the province of Behar to borrow money on the mortgage and conditional sale of landed property, under a stipulation that if the sum borrowed were not repaid (with or without interest) by a fixed period, the sale should become absolute. This species of transfer had in the above province been usually denominated bye-bil-wuffa; and the same transaction was common in Bengal, where the instrument was termed kut-cubbaleh. Since the promulgation of the rules respecting interest contained in Regulation XV. 1793, the practice had become more prevalent, and instances had occurred in which persons lending money on bye-bil-wuffa, in order to render the sale absolute, and thereby possess themselves of the landed property of the borrower, had denied the tender, or evaded receiving payment of the money due to them within the period limited for the discharge of it. For the prevention of this and other abuses in the transactions referred to, the following rules were enacted:—In all instances of the loan of money on bye-bil-wuffa, the borrower who might be desirous to redeem his land by the payment of the money lent upon it, might, within the stipulated period, either tender and pay the amount due to the lender, or deposit the same in the local Dewanny Adalut. When the lender had not obtained possession of the lands, the deposit was to be the principal sum lent, with the stipulated interest thereon, not exceeding the legal rate of twelve per cent per annum; but if the lender had held possession of the land, the principal sum borrowed only need be deposited, leaving the interest to be settled on an adjustment of the lender's receipts and disbursements during the period he had been in possession. In either case, a deposit, made as above required, should be considered to preserve to the borrower his full right of redemption.

When the lender had possessed the land, and an adjustment of accounts might be necessary, he was to account for the proceeds of the estate on the principles prescribed in Regulation XV. of 1793.

Regulation II.—1798.

Provision for Review of Judgment.

Reg. II. 1798.

The preamble to this Regulation stated, that it was necessary to the ends of justice, that in suits not open to appeal, the court that had passed a decree should have the power of reviewing its own judgment, whether for the purpose of correcting incidental errors, or of amending the decision in principle.

It was declared, however, that the discretionary exercise of this power by the courts before whom the proceedings on the case had been held, ought to be subject to the control of the Sudder Dewanny Adalut, in order that the grounds on which a review should be granted in the several courts of civil judicature might be uniform, and that it might not in any instance be allowed without due deliberation.

The Regulation accordingly provided, that persons considering themselves aggrieved by an unappealable decree, might apply for a review of judgment on the discovery of new evidence which it was not in their power to adduce when the decree was passed, or for other

good and sufficient reason. If the court thought the reasons stated to be of sufficient weight, they were to submit the application for review, together with their opinion thereon, for the orders of the Sudder Dewanny Adalut; but if they deemed the grounds shown to be insufficient, their order of rejection was to be final. If the Sudder Dewanny Adalut deemed it proper to grant the review, they were to pass such orders as might appear to them just and equitable, and to direct the admission or rejection of any new evidence that might be offered.

In reference to some doubts which had arisen in regard to the mode of obtaining opinions on points of Hindoo and Mahomedan law, the Regulation declared that the law officers attached to the several civil courts should expound the law in the cases referred to them, and that in all ordinary cases the judges should be guided by such exposition; but that in cases in which the judge might see cause to doubt the accuracy of any opinion so given, either in consequence of the production of other law opinion by the parties, or in consequence of a reference by the judges themselves to known books of Hindoo or Mahomedan law; or when, from whatever other cause, it should appear to the judge necessary for the ends of justice to take a further opinion, it should be competent to the court before whom the suit had been tried to obtain a further exposition from the law officers of the superior courts, by a reference of the case to them through the judges of those courts. Judges, however, were prohibited from referring questions to individuals not acting in a public capacity, and to whom, consequently, no responsibility would attach.

Regulation V.—1799.

Provision for the Care of Estates of Natives dying intestate.

Reg. V. 1799.

The object of this Regulation was to prescribe the duties of the civil courts on the death of natives leaving property within their jurisdiction. The Regulation enacted, that if the deceased had made a will, and appointed executors, they might take charge without application to a court of justice, provided the heir of the deceased was not a disqualified landholder, subject to the superintendence of the court* of wards. If the deceased had died intestate, leaving an heir who was of age; or, in cases of minority, if a guardian had been appointed, such heir or guardian might take possession. If there were more heirs than one, and they agreed to appoint a common manager, possession might be taken by such manager without the previous order of the civil court. If the right of succession was disputed, and a suit were instituted, the judge might give possession, pending the suit, to whichever party could give the best security. If neither party could give satisfactory security, the judge might appoint an administrator. If report were made to a zillah judge, of an intestate having left personal property, to which there was no claimant, the judge was to take such measures to make the fact known as should be most efficacious. If no one came forward to claim the property within a twelvemonth, a report of the circumstance of the case was to be transmitted, for the orders of Government.*

* *See* Reg. X. 1793. "Revenue."

Regulation I. 1800.

Administration of Portions of Estates in Joint-tenancy, to be provided for by the Courts.

Reg. I. 1800.

The object of this Regulation was to provide for the due administration of the estates of persons being joint proprietors of land, inasmuch as portions of estates do not come under the administration of the court of wards, whenever one or more of the shareholders were competent to the administration of its affairs. Under the provisions of Regulation V. 1799, in case of a minor or other incapacitated person succeeding to a share, the next of kin who by the law and usage of the country might be authorized to act for him, was to take possession on his behalf. It had been found in practice, that such nearest of kin were sometimes unfit persons to be vested with such authority; the present Regulation therefore rendered it the duty of the judge, on receiving a report from the collector, or from any other person interested in the family, stating the grounds on which the next of kin was unfit for the care of the person, or management of the estate of the heir, to investigate the nature of such objections, and if satisfied that they were well-founded, to nominate some other person of capacity, character and responsibility, but in no case the heir of the ward, or other person interested in out-living him. Guardians appointed under this Regulation were to have the care of the person, maintenance and education of the ward, and were to vote in the election of the manager for the joint undivided estate. The appointment of a guardian to a shareholder, under this Regulation, was not to exempt the estate from sale for arrear of revenue.

Regulation III.—1800.

Extension of the Powers of Registrars.

Reg. III. 1800. (Rescinded by Reg. XLIX. 1803.)

It having been found that a great accumulation of causes had taken place under the provisions of Regulation XL. 1793, which required that all appeals from the decisions of the native commissioners

* It was provided by Regulation XV. of 1806, that if an European British subject died intestate in the provinces, the judges of the zillah should notify the case to the registrar of the supreme court, retaining the property in charge till letters of administration should be taken out.

By Regulation V. 1827, it was directed, that when the Courts might have to provide for the administration of an estate paying revenue to Government, they were to require the collector to nominate a fit person, and to take adequate security from him, for the due discharge of the trust. Persons having an interest in an estate so administered, and who deemed the collector's appointment an improper one, might appeal to the Board of Revenue, who would either confirm the collector's nomination, or direct him to appoint another manager.

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commissioners should be made to the zillah judges, whose decisions thereupon should be final, this Regulation empowered the judges of the zillah and city courts to refer to their registrars as many of such appealed causes as they should think proper, provided the property in dispute did not exceed 25 rupees; and the decision of the registrar in such cases was declared final.

Regulation III.—1801.

Committals for Perjury before the Civil Courts.

Reg. III. 1801.

It had been found that the rule prescribed in Regulation IV. of 1793, for the immediate committal of persons suspected of committing perjury before a civil court, had become oppressive in practice, in consequence of parties very commonly preferring unfounded charges against the witnesses whose evidence was unsatisfactory to them, which accusations were themselves supported by gross perjury. This evil practice, it was stated, would, if it were not checked, deter all men of respectability from appearing to give their testimony on oath in any court of justice, and would greatly increase the difficulty of procuring the voluntary attendance of such witnesses. As the only effectual remedy for this abuse, it appeared necessary to take away altogether from parties in civil suits the right of bringing forward such accusations, and to leave it to the discretion of the judge to determine when any witnesses brought before him should be committed for perjury. It was therefore enacted by the Regulation, that individuals whose attendance was required in the civil courts, either as plaintiffs, defendants, or witnesses, should not be liable to prosecution for perjury, or subornation of perjury, at the instance of the parties in such civil suits, unless committed by the judge trying the case.

Regulation III.—1802.

Security for the Appearance of Defendants—Pauper Suits.

Reg. III. 1802.

It was declared in the preamble, that the provisions of the Pauper Suit Regulation XLVI. of 1793, had been grossly perverted, to the oppression of many persons against whom vexatious suits had been instituted by paupers, and who were thereby put to heavy expenses, without any means of compensation or relief; and further, that the penalty of imprisonment which the abovementioned Regulation imposed on the vexatious suitor, had not been found sufficient to check that flagrant abuse.

By the present Regulation it was therefore enacted, that the judge should exercise a discretion in the amount of security to be required of defendants for their appearance, with liberty at any time in the course of a suit, when it might appear necessary, to call for higher or other security; that in pauper cases it should be competent to the court giving judgment, at its discretion, to decree to the vakeels of the defendant such amount of fees as should appear adequate to their labour, leaving the remainder of the full fees to be recovered from any property which the plaintiff might be found to possess. In pauper suits, if judgment had been given by the court of original jurisdiction against the defendant, and such judgment should be afterwards reversed on appeal, the institution fee* paid on the appeal might be returned to the successful appellant, and be eventually recovered, if practicable, from any property of which the pauper suitor should become possessed. If judgment in the original suit were given against the pauper plaintiff, and the suit appeared to be a vexatious one, the court were to commit the pauper to prison, even though he should appeal from the judgment; and if the superior court confirmed the decision, they might extend the period of imprisonment, the provincial court to six months, and the Sudder Dewanny Adawlut to one year.

* *See* Reg. VI. 1797. Fees and Stamps. P. 672.

The power of returning the institution fee, and the discretion in the taking of security from defendant, were declared applicable to all cases besides those instituted by paupers.

Regulation XLIX.—1803.

Appointment of Assistant Judges—Extension of Registrar's Jurisdiction—Special Appeals.

Reg. XLIX. 1803. (Rescinded, Regs. XXIII. & XXIV. 1814.)

A great accumulation of undecided suits was found to have taken place in the zillah courts, chiefly arising from accidental circumstances, the effect of which it was thought might be removed by a temporary arrangement for their decision, without a permanent alteration of established jurisdiction, by the appointment of temporary judges, whenever requisite, to assist in the trial of causes depending in a city or zillah. It was therefore enacted, that assistant judges should be appointed by the Government, whenever it should appear from the report of the Sudder Dewanny Adawlut, or otherwise, that the number of undecided suits called for such temporary relief.

To the officers so appointed, the zillah judges were authorized to refer, at their discretion, any original suits, or any appeals from the decisions of the registrars, or of the native commissioners, that were depending before them. The court of the assistant judge was to be attended by a sufficient number of the authorized vakeels of the zillah court; process was to be issued under the signature of the assistant judge, who was to proceed in the trial of causes referred to him, in conformity with the general rules for the trial of civil suits.

As a further measure for expediting the business in civil judicature, the jurisdiction of the registrars was extended to suits for 500 rupees.

The rule, rendering final the decisions of registrars, for personal property not exceeding 25 rupees, and on appeals from native commissioners, and the rule rendering the decisions of zillah judges on appeals from the registrars in cases of personal property, and in original cases decided by themselves, to the extent of 25 rupees, were rescinded; and it was enacted, that

that an appeal should lie to the zillah court from all decisions passed by the registrars. The decrees of the zillah judges upon such appeals, in all cases not exceeding 100 rupees, were declared final; in appeals above that amount, if the decision of the zillah judge confirmed that of the registrar, that decree was to be final; but in appeals above 100 rupees, if the judge's decree altered that of the registrar, an appeal was to lie therefrom to the provincial court.

To guard against the evils resulting from erroneous decisions in cases not regularly open to appeal, where, though the sum in issue was not considerable, a question of a general or important nature might be involved, it was deemed advisable to authorize the provincial courts to admit a second or special appeal, the admission of such special appeal not to be matter of right in the suitor, but to be at the discretion of the superior court.

The decrees of the zillah and city judges in appeals from the decision of the native commissioners for personal property, were declared final, it being presumed that the judge would refer all suits for personal property not exceeding 50 rupees to the native commissioners, and all suits for personal property not exceeding 100 rupees, either to the registrar, or to the Sudder Ameens,* and that they would not themselves try any suit within such amount, unless it involved some general question, or were otherwise of importance. It was further enacted, that an appeal should lie to the provincial court, from all suits decided in the first instance by the zillah judge.

* *See* Reg. XLIX. 1803. P. 667.

Regulation II.—1805.

Limitation of Time for Institution of Suits.

Reg. II. 1805.

The preamble to this Regulation adverted to a limitation of time formerly prescribed for the institution of suits, namely, 12 years from the time when the cause of action had arisen, or 12 years from the time of the cession to the Company of the province in which such claim had arisen; which limitations appeared to have been established on the institution of the courts of Dewanny Adawlut in 1772, when the administration of civil justice was first committed to the Company. It had been remarked in the plan then proposed by the committee of circuit, that by the Mahomedan law all claims which had lain dormant for 12 years, whether for land or money, were invalid, and that this was also the law of the Hindoos, and the legal practice of the country.

The preamble observed, that the foregoing statement was not correct with respect to the Hindoo and Mahomedan laws, though it might be so with regard to the legal practice of the country; that the rule, however, having been established, and so long in force, it would be improper to abrogate it altogether. The declared grounds on which it had been introduced, viz. "that the litigiousness and perseverance of the natives in their suits and complaints were often productive, not only of inconvenience and vexation to their adversaries, but also, of endless expense and actual oppression," were not applicable to suits instituted for the recovery of public rights and dues, under the provisions of the Regulations which subject public claims and interests to the decision of the established courts of justice; and in regard to such public suits and claims, the Hindoo law prescribed no limited time: the law of England had restricted the time for such suits to 60 years; the same period was recognized by the Hindoo law, in regard to private rights and claims, in cases of unmolested possession, unless there were proof of bad title; the same period of limitation was not incompatible with the Mahomedan law. Under these circumstances, although the Government did not judge it necessary to alter the limitation of time, in cases of land, houses, or other immoveable property, held under a just and honest title, yet they were of opinion that a longer period should be allowed for the cognizance of such claims, if the claimant could show that the adverse possession had been acquired by violence, fraud, or other unjust and dishonest means, or that having been so unjustly acquired by the person from whom the occupant derived his title, it had not been subsequently held under a just and honest title for a term equal to the fixed period of prescription.

9 Geo. 3. c. 16.

The Regulation accordingly enacted, that the limitation of 12 years for the commencement of civil suits, should not be considered applicable to suits instituted on behalf of Government for the recovery of public rights or claims, whether for the assessment of land held exempt from public revenue without sufficient title, or for the recovery of arrears of public assessment, or for any other public right. All such suits were to be received in the courts of judicature, if preferred within 60 years from the date when the cause of action had arisen, provided that date was not anterior to the Company's accession to the Government of the province in which the claim had arisen.

The Regulation also extended the time for instituting private suits in cases of *malâ fide* possession, in conformity with the principle declared in the preamble.

It likewise limited to one year the time for instituting private suits for the recovery of certain damages allowed by the Regulations to be sued for by individuals, or for the institution of public suits for fines and penalties by Government, and for the institution of summary suits for arrears of rent and forcible dispossession.

Regulation II.—1806.

Process of Citation and Attachment—Insolvent Debtors.

Reg. II. 1806.

This Regulation was enacted to remedy certain defects in the practice of the civil courts. The first defect was in the preliminary process of citation, which compelled the party to accompany the officer serving the writ, and to give security for his appearance on a day appointed, in failure of which he might be committed to custody until he should give the

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requisite security. Instead of that course, the present Regulation prescribed that a simple notice should in the first instance be served, directing the attendance of the party on a certain day. The service of such notice on an accredited agent, and other facilities, were provided for; power was however given to the courts to require security in cases where it might be deemed necessary for the ends of justice.

The second defect was, that the courts had no power to attach the property of the defendant before judgment given against him. This Regulation enabled the courts to attach property in all cases where the person might be attached; and all alienations or transfers of property by the parties after notification of attachment, were declared penal as well as void.

The third defect which this Regulation supplied, was that of a power in the courts to adjudge payment of sums by instalments.

Lastly, this Regulation enacted rules for the relief of insolvent debtors, enabling the courts to receive from them statements on oath of all property belonging to them, and after due inquiry into the truth of such statements, or the validity of such objections as might be made to them, to receive a surrender of such property, and thereupon to release the individual with or without security for appearance when required.

No debtor against whom any fraud was proved was to be entitled to release; property subsequently possessed, was declared answerable for the unsatisfied debts on application to the courts.

A discovery, after release, of fraudulent concealment of property at the time of discharge, might be a ground for again confining the party.

Regulation XIII.—1808.

Limitation of Jurisdiction of Zillah Courts to 5,000 Rupees.

Reg. XIII. 1808.

The preamble to the Regulation stated, that as suits for 5,000 rupees and upwards were appealable, first to the provincial courts, and subsequently to the Sudder Adawlut, it was found that considerable delay frequently occurred in the final adjudication of contested claims to large estates, and other valuable property; the person against whom the judgment was given, being seldom willing to abide by it while at liberty to appeal. Further evil was stated to have arisen from the operation of the rule which allowed appellants to retain possession of property adjudged under security until a final decision should be passed. That rule had been found to encourage groundless appeals, instituted for the sole purpose of keeping possession of the property in dispute to the prejudice of the real proprietor. To remedy these evils, this Regulation enacted, that all suits for sums exceeding 5,000 rupees and upwards, should be instituted in the first instance in the provincial courts, so that one appeal only should lie of right in such cases, and that persons who might obtain a decree in their favour for lands or other immoveable property, should have immediate possession, notwithstanding an appeal, provided they could give security for the satisfaction of the ultimate decree. Authority, however, was left to the court to which the appeal might be preferred, if they saw cause, to allow the appellant to retain possession upon giving like security.

Regulation IV.—1812.

Prosecution and Defence of Suits, in which Native Princes are parties.

Reg. IV. 1812.

This Regulation was enacted, to provide for the prosecution and defence of suits in which native princes might be parties, such personages being reluctant to appear in courts of justice as plaintiffs or defendants.

It recites that the British Government had rendered its acts amenable to the courts established for the administration of justice, in civil cases, and in the same spirit of equity had precluded itself from deciding by its own authority on disputed claims to property of every description in which it might be a party with any of its subjects, except in cases expressly reserved to its decision or to that of the subordinate executive authorities by the existing Regulations; and that the sovereigns of adjacent states had occasionally claims to prefer or rights to defend, as individuals, in the territories of the British Government, and difficulties had occurred in prosecuting or defending such claims.

To meet the feelings of the persons referred to, the Regulation authorized the Government to order suits to be prosecuted or defended on behalf of native princes by the vakeels, aided by the revenue officers, of Government, in cases for the recovery of lands, &c. Copies of the decrees which judges might pass in such suits, to be transmitted by the courts to the Secretary to Government in the judicial department.

Regulation III.—1813.

Reviews of Judgment.

Reg. III. 1813. (Rescinded by Reg. XXVI. 1814.)

It appearing requisite for the ends of justice that the powers granted to courts under Regulation II. 1798, to review their judgments in cases not appealable, should be extended, they were authorized by this Regulation to apply the rules before enacted, to admit reviews of judgment in appealable cases, if the application were preferred within three months after the delivery of the decree.

Regulation VI.—1813.

Reference to Arbitration of Suits regarding Title to and Possession of Land, Crops, &c.

Reg. VI. 1813.

The former Regulations having only provided for reference of questions of account to the decision of arbitrators, the present enactment authorized the reference, under the same rules,

rules, of questions respecting property in land, or limited tenures therein, or rights dependent thereon, and directed that the parties in such suits should by all due means be encouraged by the courts to resort to that mode of adjusting their differences: the Regulation further provided, that persons between whom disputes should exist on such points, might, without application to the courts, refer them to private arbitration, and the awards made by the arbitrators and umpires appointed in such cases by the parties, should be supported and enforced by the courts, under certain rules and limitations to prevent abuse.

It was further provided, that if a criminal court should certify to a civil court, that any dispute existed regarding possession of land, which was likely to lead to a breach of the peace, the civil court should call on the contending parties to attend and deliver a written statement of the fact of possession, and adduce proof of forcible dispossession or disturbance by the adverse party; whereupon the court, after due investigation, should decide the case in the same manner as if it had been brought before them by a complaint in the ordinary mode. The civil courts were in these cases, as in those before stated, to endeavour to induce the litigant parties to refer the question of right to arbitration; and to give effect to the award, if open to no just cause of impeachment.

When the question of prior possession and forcible dispossession could not be summarily decided, the courts were authorized to attach the lands, and appoint an ameen to collect the rents until the question should be decided.

Regulation XXIV.—1814.

Amendments in the Constitution and Jurisdiction of the Zillah Courts.

Reg. XXIV. 1814.

The object of this Regulation was stated to be to expedite the decision of civil suits by the various modifications in the constitution and jurisdiction of the zillah and city courts; it accordingly enacted that the office of assistant judge, established by Regulation XLIX. 1803, should be abolished.

That no person should be appointed registrar of a zillah, city or provincial court, or registrar or deputy registrar of the Sudder Dewanny Adawlut, unless he should have obtained a certificate of his due qualification, according to the statutes of the College of Fort William.

That no person should be appointed judge and magistrate of a zillah or city court, unless he should have officiated as registrar or assistant in the judicial department for three years.

That the original jurisdiction of the zillah courts, be limited to suits not exceeding 5,000 rupees.

That a regular appeal should lie to the zillah judge from all decisions by moonsiffs, sudder ameens and registrars, except in referred cases exceeding 500 rupees.

That judges should be authorized to refer to the sudder ameens, suits for sums not exceeding 150 rupees. An appeal from their decisions to lie to the zillah judge, whose decision was to be final, unless the provincial court should admit a special appeal. That the judges might also refer to the sudder ameens appeals from the decisions of moonsiffs, and the decrees of the sudder ameens thereupon were to be final, unless the zillah judge should admit a special appeal. That zillah judges should be authorized to refer to the registrars' original suits, not exceeding 500 rupees, and from their decisions an appeal was to lie to the zillah judge, whose decision was to be final, unless a special appeal was admitted by the provincial court.

Power was given to the Governor-general in Council to invest the registrar of any zillah or city court with special additional powers in the trial and decision of regular civil suits, whenever the pressure of business in the zillah court should require such relief, and the registrar should be duly qualified by his experience, industry and ability, to be intrusted with such special powers; the registrars so appointed might try any depending appeals from the decision of moonsiffs or sudder ameens, which the zillah judge might refer to them, and the registrars' decision was to be final, unless the zillah judge admitted a special appeal; the registrar might be further empowered to try original suits exceeding 500 rupees, which the judge might refer to him. An appeal was to lie from decisions passed by him in such cases to the provincial court.

The judges of the zillah courts were authorized to employ the registrar, assistant or principal native officers, in taking the depositions of witnesses, in the presence however of the parties or their pleaders; the registrars also might employ their assistants and principal native officers in taking depositions in suits referred to them.

It was also provided, that the Governor-general in Council might appoint two or more registrars in a zillah, and might station one or more of them in any part of the zillah, not being the station of the judge's court. Registrars not at the zillah court stations might be invested with original jurisdiction in summary suits.*

Regulation

* By Regulation II. 1815, it was provided, that the original jurisdiction of the Registrar might be extended beyond the limits of the Zillah, in cases where the Registrar was authorized to exercise the powers of joint Magistrate in adjoining districts.

Appendix, No. 6.

Regulation XXVI.—1814.

Amending the Course of Proceeding and Practice in the Civil Courts of original and appellate Jurisdiction.

Reg. XXVI. 1814.

The object of this Regulation was to expedite the administration of justice, by improving the rules regarding the admission of special* and summary appeals, and the pleadings and processes in civil suits. It enacted, that no second or special appeal be admitted by any of the courts, unless, upon the face of the decree or documents exhibited with it, the judgment should appear to be inconsistent with some established judicial precedent, or with some regulation in force, or with the Hindoo or Mahomedan law, in cases which were required to be decided by those laws, or with any other law or usage which might be applicable to the case, or unless the subject should involve some points of general interest or importance not before decided by the superior courts.

Summary appeals were declared admissible by the several courts, in all cases in which it might be alleged that the lower court had refused to admit an original suit or appeal regularly cognizable by them, or might have dismissed such suit on the ground of delay, informality or other default, without investigation of the merits of the case. The superior court was to institute a "summary" proceeding in such case; and if should appear to them that the lower court had acted in such rejection or dismissal upon insufficient grounds, or in opposition to the Regulation, they might command the lower court to proceed to try and determine the case upon its merits.

The Regulation next provided, that a review of judgment might be granted in any cases in which no appeal had been preferred; the rejection of an application for a review, was not to affect the right of preferring a regular appeal.

Certain rules were enacted regarding the preparation of pleadings and the presentation of the petitions of appeal: among the rest, that the written pleadings should be completed before any exhibits should be filed or witnesses summoned; and that if from the pleadings in the case the points at issue could not be ascertained, or if further explanation should be required, the court should interrogate the parties or their pleaders, with a view of ascertaining the precise object of the suit and the grounds on which it was to be maintained, and should record the result on their proceedings; the court were then to record the points to be established by the parties respectively, and proceed to take evidence thereon. In like manner they were to record any other points that might arise in the course of investigation, and no exhibit was to be filed, nor witness summoned, unless expressly declared to be in proof or refutation of some point upon which the court had directed that evidence should be taken.†

The Regulation contained some rules of practice of minor importance.

Regulation XXVIII.—1814.

Consolidating and amending the Rules concerning Pauper Suits.

Reg. XXVIII. 1814.

The preamble declared that the rules previously enacted for admitting persons to sue in the civil courts as paupers, had tended to encourage the institution of groundless and litigious suits; the present Regulation was framed to check that evil, and also to reduce into one regulation the whole of the provisions applicable to persons suing as paupers. It accordingly enacted, that no pauper suits be admitted in which the claim should not exceed 64 rupees. This rule precluded moonsiffs from receiving pauper suits; no pauper suits to be admitted for damages, or for the recovery of deeds or documents, fines or forfeitures.

The Regulation proceeded to lay down rules for admitting applications to sue in *formâ pauperis*, and for ascertaining the truth of the allegation of poverty; if the pauper was admitted, the proceedings were to be exempt from stamps and fees. If the pauper plaintiff succeeded in his suit, the fees, or such part as the court might decree, were to be paid by the defendant; if the claim was dismissed, the defendant was to pay his own pleader such adequate compensation as the court might direct, the remainder to be recovered from any property which the plaintiff might subsequently be found to possess.

Pauper plaintiffs were declared liable to imprisonment in the civil jail for six months, for vexatious suits, if they did not pay the fees and costs awarded against them. Sums due by pauper plaintiffs might be recovered from forthcoming property, notwithstanding their confinement.

The admission of appellants and also of respondents to plead as paupers, was left to the discretion of the court appealed to; but if all dues had been paid by the pauper, he had the common right of appeal on fulfilling the usual conditions.

Copies of proceedings of the Sudder Dewanny Adawlut, in appeals to the King in Council, were to be furnished, without expense, to pauper parties, and to be written on unstampt‡ paper.

Regulation

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* The difference between a regular and a special Appeal is, that the former is an appeal from the first decision passed on the suit, and is claimable of right; the latter is an appeal from a Judgment on Appeal, and may be granted or not, at the discretion of the Court appealed to.

† By Regulation XIX. 1817, a further ground of special appeal was allowed, namely, where decrees inconsistent with each other had been passed on the same point by the same court, or by courts of concurrent jurisdiction.

‡ According to the analogy of proceeding, the admission or rejection of a pauper appeal rests with the King in Council as the court appealed to; but as the court of Sudder Adawlut could not know the decision

Appendix, No. 6.

Regulation IV.*—1816.

Prisons and Prisoners.

This Regulation extended to civil jails and prisoners the rules in force regarding criminal prisons; viz. that petitions might be received, by the judges, from such prisoners, being poor, on unstampt paper, if they related to alleged ill treatment. It also directed judges to visit the jails weekly, and to redress grievances, and to attend carefully to the cleanliness and healthy state of the prisons, and the due attendance of the surgeons.† Reg. IV. 1816.

Regulation VIII.—1816.

Constitution of the Office of Remembrancer of Legal Affairs.

The preamble of the Regulation recited, that under the existing Regulations, the duty of determining on the propriety, or otherwise, of instituting or defending, on the part of Government, original suits or appeals in the several courts of civil judicature, rested with the Governor-general in council, and with the several Boards acting under his authority, in different departments. With a view to afford further facilities in the discharge of a duty which so materially involved the reputation as well as the interests of the Government, it seemed advisable that an officer should be appointed, to be denominated "Superintendent and Remembrancer of Legal Affairs," who might aid the authorities, as well in the conduct of important suits and appeals when instituted, as generally in deciding on the propriety of having recourse to the established courts of justice for the recovery or maintenance of the rights and interests of Government. It was conceived also that the services of that officer might occasionally be available in matters of a criminal as well as of a civil nature. Reg. VIII. 1816. (Rescinded by Reg. XIII. 1829.)

The Regulation accordingly constituted the office of "Superintendent and Remembrancer of Legal Affairs," to be held by a covenanted servant of the Company, to whom the Government, or the chief revenue, commercial, or other public authorities, might refer for his opinion, questions either of fact, or depending on the provisions of the Regulations, or upon the principles of Hindoo or Mahomedan law, before determining on the propriety of authorizing a recourse to judicial process.

Regulation XV.—1816.

Provision for the Trial of Suits in which Native Officers and Soldiers are Parties.

The preamble recited, that native officers and soldiers were liable to be stationed at places remote from their homes and families, and it was impracticable to grant to them frequent or prolonged leave of absence from their military duties; in consequence of which, material difficulty and embarrassment had been unavoidably experienced by them in maintaining and preserving their just rights, claims, and interests; and their fidelity and zeal entitle them to the favourable consideration of Government. Reg. XV. 1816.

On these grounds, the Regulation enacted sundry rules providing for the prosecution and defence of suits by the agency of persons to be duly empowered by the suitors. Similar aids were provided in the transaction of business with the revenue authorities on behalf of native officers and soldiers.

Regulation XVIII.—1817.

Oaths of Office taken by Native Ministerial Officers.

The preamble referred to doubts that had arisen as to the particular officers who were required to take the prescribed oaths, and declares the expediency of modifying the existing rules regarding oaths of office, with a view to maintain the sanctity and obligation of oaths, by confining the requisition of them to the confirmation of evidence and the administration of justice. Reg. XVIII. 1817.

The Regulation accordingly rescinded the rules requiring oaths of office to be taken by the ministerial officers of the courts of justice, or by moonsiffs, sudder ameens, or vakeels, and required a declaration in writing, similar in form, with the substitution of the word "declare" for "swear." The Regulation made further provision for the prosecution, criminally and civilly, of ministerial public officers charged with malversation or corruption.

Regulation

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decision of His Majesty in Council on the question of the expediency of admitting pauper appeals generally, or any one such appeal in particular, it was deemed right to provide for transmission of the records in such cases, authenticated in the usual manner, for the final orders of His Majesty in Council.

* By Regulation III. 1826, the control of the civil gaol was vested in the Zillah Magistrate, who was authorized to punish for refractory and disorderly conduct, which should be proved on a summary inquiry before him, by close confinement, or a reduction of the prisoner's allowance, for any term not exceeding two months.

† By Regulation VI. 1830, provision was made for the deposit of the subsistence money for the debtor for one month previously to the issue of the process for arrest, the amount of deposit to be fixed by the Judge at not less than one ana or more than four anas a day; the deposit to be renewed every 30 days, or in default thereof the prisoner to be released, and not to be again arrested on the same matter, unless guilty of fraudulent concealment or transfer of property.

Appendix, No. 6.

Regulation XIX.—1817.

Option granted to sue in the Provincial or Zillah Courts, in certain cases.

Reg. XIX. 1817. This Regulation was enacted to promote the convenience of persons residing at a distance from the provincial and zillah courts. By Regulation XIII. of 1808, and XXV. 1814, all suits, for sums exceeding 5,000 rupees, were to be instituted, in the first instance, in the provincial courts; the present Regulation gives an option to the plaintiff, in suits not exceeding 10,000 rupees, to sue either in the provincial or zillah courts: in all such suits a regular appeal to lie to the provincial courts, and a second or special appeal admissible by the Sudder Dewanny Adawlut.

Regulation IX.—1819.

Admission of Special Appeals.

Reg. IX. 1819. The preamble to the Regulation declared, that it would be conducive to the ends of civil justice, to amend the rule which limited to certain specific grounds the admission of special appeals by the Sudder Dewanny Adawlut and provincial courts. The Regulation accordingly enacted, that those courts should be competent to admit a second or special appeal, whenever, on a perusal of a decree of the court from which the special appeal was desired, there should appear strong probable ground, from whatever cause, to presume a failure of justice. It was further provided, that zillah judges might certify to provincial courts such cases as were not regularly appealable, if in their opinion they involved a point of general importance which had not been before settled, and which seemed fit to be reconsidered in a further appeal. A similar power was granted to the provincial court, in reference to the Sudder Adawlut. The special appeal, however, was not to be admitted, unless two judges concurred in the propriety of its admission.

With a view to facilitate the trial of appeals from decisions of the zillah registrars, this regulation enacted that it should be competent to the Governor-general in Council to authorize registrars, who had been employed not less than six years in the judicial department, to try such appeals from decisions passed by other registrars in original suits not exceeding 500 rupees, as the zillah judges might refer to them; provided always, that the original decision had been passed by a registrar junior in the Company's service to the person so authorized to try such appeals. Provincial courts were empowered to admit a second or special appeal from decisions passed by registrars under the above powers.

Regulation II.—1821.

Increase of the Powers of the subordinate Judicial Authorities.

Reg. II. 1821. This Regulation was enacted for the purpose of relieving the zillah and city judges of part of the business that pressed upon them, by increasing the powers of the subordinate judicial officers, European and native; it accordingly enacted, that the decrees of the provincial courts, and of the Sudder Adawlut, should be carried into execution by the provincial courts through their own officers, instead of through the zillah courts, as prescribed by Regulation V. of 1793.

It empowered the zillah judges to refer to the registrars or sudder ameens, applications for the execution of decrees passed by the sudder ameens and moonsiffs.

It likewise enabled registrars to receive, in the first instance, such original suits or appeals as might be referrible to them within the local jurisdiction entrusted to them as joint magistrates under the Regulations, and to transmit the plaint for the orders of the judge, who might either direct the Registrar try the case, or call it up before himself. And registrars residing in other places than the zillah court station were empowered by their own authority to execute the decrees of sudder ameens and moonsiffs. The fees receivable by registrars, on decisions of suits, were abolished, it being resolved that they should be remunerated by a fixed allowance determinable by Government. The office of registrar of the provincial court was abolished.

Regulation III.—1824.

Extension of the Special Powers of Zillah Registrars.

Reg. III. 1824. By this Regulation the Governor-general in Council was authorized to extend the original jurisdiction specially vested in zillah registrars, to those portions of other districts in which the registrar might exercise the powers of joint magistrate.

Regulation XI.—1824.

Judicial Officers authorized to make Local Investigations.

Reg. XI. 1824. The preamble stated, that although provision had been made for enabling judges and registrars to hold their proceedings in summary suits, for arrear of rent or possession of land or crops, at any place within their jurisdiction, no general power had been given to judges and magistrates, to depute their registrars or assistants, when necessary, for the purpose of making local investigations in any matter in a depending civil suit. The Regulation accordingly vested that power in the before-mentioned officers, and authorized them to charge the expense of such deputation to the party against whom the final decision might be given, or, in cases of indigence, to discharge the same on the part of the Government. Such deputations, when ordered, were to be immediately notified to the provincial court, who, if they

they thought the measure unnecessary, were competent to revoke the order, transmitting in such case their proceedings, for the final decision of the Sudder Dewanny Adawlut. The judicial officers were directed not to exercise the power of deputation, except when absolutely necessary.

Appendix, No. 6.

(1.) Abstract of Regulations for the Administration of Civil Justice.

Regulation II.—1825.

Reviews of Judgment.

Reg. II. 1825.

The preamble to this Regulation stated, that the small expense attending application for review of judgment in the civil courts had been found to encourage numerous ungrounded petitions of that description, to the serious hinderance of other business; and that the extension of the grounds for the admission of special appeals effected by Regulation IX. 1819, had been productive of a large increase of such appeals, numerous petitions for which, whether ultimately rejected or admitted, occupied more time than could be applied to them, without impeding the trial and decision of other more important cases. This Regulation enacted therefore on the first head, that petitions for review of judgment, if not presented within three months after the passing of the decree, should be written on the high-stamp paper prescribed for petitions of appeal, but if presented within that time, should be written on the low-stamp paper prescribed for miscellaneous petitions. If the petition written under the provisions of this Regulation on the high-stamp paper should be rejected, the petitioner was not to be entitled to a return of the stamp duty; a discretionary power was however vested in the courts, to return a portion of it in cases of particular hardship. If the petition written on the low-stamp paper was deemed litigious, the courts might fine the petitioner.

On the 2d head, the Regulation rescinded the provision of Regulation IX. 1819, authorizing the admission of special appeals, on the general presumption of failure of justice, and re-established the rules prescribed in Regulation XXVI. 1814.

These provisions were extended to pauper appeals by Regulation IX. 1828.

Regulation V.—1825.

Provision for the occasional Union of the Offices of Judge and Collector.

Reg. V. 1825.

The preamble recited, that it had occasionally been found expedient to place the charge of collectorships in the hands of zillah judges or registrars, and that it might be found necessary hereafter to vest officers with the united powers of judge and collector, in the administration of the affairs of particular districts, or in the adjustment of boundaries, or in the settlement of tracts occupied by peculiar tribes or classes of people, or in the execution of other special measures. Adverting to doubts which existed, whether such union of authority were legal, the Regulation declared its legality retrospectively and prospectively. It further enacted, that it should be competent to the Governor-general in Council to vest the powers of civil judge and collector of the revenue in the hands of the same officer, whenever and so long as such arrangement might for special purposes appear expedient.

Regulation XI.—1826.

Qualification of Law Officers.

Reg. XI. 1826.

This Regulation provided that no person should thenceforward be appointed Hindoo or Mahomedan law officer in any of the courts of justice, who should not have obtained a certificate of qualification, in a prescribed form, after examination by a committee consisting of such persons as the Governor-general in Council might from time to time be pleased to appoint for that purpose. The Regulation provided for annual public examinations of all persons who should offer themselves as candidates for the appointment of law officer. A report of the examination to be made to the Governor-general in Council, and certificates to be given to those who should be found qualified.

Regulation III.—1829.

Abolition of the Offices of Mahomedan and Hindoo Law Officers, in Provincial Courts.

Reg. III. 1829.

By this Regulation the offices of Mahomedan and Hindoo law officers of the provincial courts were abolished, and it was declared competent to the judges of the provincial courts to refer any questions of Hindoo or Mahomedan law, to be expounded by the officers of the nearest zillah or city court, or by the law officers of the Sudder Dewanny Adawlut.

Regulation VII.—1829.

Reports and Calendars.

Reg. VII. 1829.

By this Regulation all the rules in preceding Regulations, prescribing forms of reports, calendars, and other statements to be furnished periodically by the courts of judicature, were rescinded; and it was enacted, that the court of Sudder Dewanny Adawlut should from time to time, as circumstances might require, prescribe the forms and fix the periods of transmission of all such reports to be furnished by the courts, European or native, or by the judicial or police officers of the Government.

Regulation XIII.—1829.

Office of Remembrancer abolished.

Reg. XIII. 1829.

By this Regulation the office of Remembrancer of Legal Affairs was abolished, and the rules in force previously to its establishment were revived.

Appendix, No. 6.

PART I.—Civil Judicature—GENERAL—*continued.*

Regulations for the Administration of Justice.

(B.)—POWERS and DUTIES of the PROVINCIAL COURTS of APPEAL.

Regulations.

V. 1793.—V. 1794.— Establishment, Constitution and Jurisdiction of the Provincial Courts - p. 658

XLVII. 1793.—Number of Judges necessary to pass a Decree - - - - - - - p. 659

XII. 1797.—Decrees of Provincial Courts on Appeal declared final to 5,000 Rupees for personal Property - - - - - - - - - - - - ibid.

V. 1798.—Decrees of Provincial Courts declared final to 5,000 Rupees for real Property ibid.

I. 1807.—Powers of a single Judge of a Provincial Court extended - - - - ibid.

XIII. 1808.—Original Jurisdiction given to the Provincial Courts - - - - - ibid.

XIII. 1810.—Powers of single Judges increased - - - - - - - - - p. 660

V. 1814.—I. 1826.— Increase in the number of Judges of the Provincial and Circuit Courts - ibid.

XXV. 1826.—Amending the Constitution and Jurisdiction of the Provincial Courts - - ibid.

III. 1829.—For supplying the place of a third Judge, when two Judges of a Provincial Court differed in opinion - - - - - - - - - - ibid.

(B.)

POWERS and DUTIES of the PROVINCIAL COURTS of APPEAL.

REGULATION V.—1793.

Establishment, Constitution and Jurisdiction, of the Provincial Courts.

Reg. V. 1793.

THE preamble to this Regulation stated, that previously to its enactment, suitors dissatisfied with the decisions of the civil courts which had existed before the establishment of the zillah courts in the provinces, had no means of obtaining redress for erroneous or unjust decisions, except by the expensive and tardy process of an appeal to the Governor in Council at the Presidency; that the important avocations of the Government had rendered it necessary to limit such appeals to suits for 1,000 rupees or upwards; which limitation had the effect of excluding from revision the greatest part of the suits instituted in the country courts, and had left the suitors without redress. The preamble further stated, that suits between Government and the proprietors and farmers of land, and between those persons and their under-tenants, on questions of rent or revenue, had formerly been solely cognizable in the revenue courts, * from which the appeal to the Board of Revenue or the Governor in Council was equally encumbered with difficulties. The preamble then declared, that the jurisdiction of the zillah and city courts having now been extended to all civil suits, including those before cognizable in the revenue courts, it was essential to the prosperity of the country that all persons, especially the cultivators of the soil, the traders and manufacturers, and the other classes of the lower and most industrious orders of the community in the different parts of the provinces, who should be dissatisfied with the decisions of those courts, might have an appeal to a higher court to which they could have ready access; and that such courts should be so constituted that they might be looked up to with confidence for speedy redress against unjust or erroneous decisions.

* Mâl Adâlut.

With these views, the enacting clauses of this Regulation provided for the establishment of four courts of appeal, to be denominated respectively "The Provincial Court of Appeal," for the divisions of "Calcutta," "Patna," "Dacca" and Moorshedabad; each court to be superintended by three judges, who should be styled "first," "second" and "third." The Regulation specified the cities and zillahs which were to be included in the respective divisions. The powers of the provincial courts were declared to be, to try in the first instance such suits as should be transmitted to them for that purpose by the Government or by the Sudder Dewanny Adawlut, and to order their decrees in such cases to be executed by the judges of the zillah or city courts; to receive original suits or complaints which any judge of a zillah or city court might have refused or omitted to receive or proceed in, and to cause such judge to hear and determine the same; to receive petitions respecting suits or matters depending in the zillah or city courts, and if any such petition had been before rejected by the zillah judge, and it appeared to the provincial court to be such as he ought to have entertained, then to cause the said judge to receive and attend to it; to receive charges which might be preferred against zillah judges for corruption, and to forward them to the Sudder Dewanny Adawlut; also to report to that court whenever it should appear that any of the zillah judges had been guilty of negligence or misconduct in the discharge of their duty. The provincial courts were to receive and try appeals from the zillah courts, if preferred within three months after the

These designations were abolished by Reg. III. of 1829.

the passing of the decree appealed from, or after that time, for sufficient reasons,* which were to be recorded on the proceedings of the court. It was provided, that security should be taken from the party left in possession of the litigated property pending the appeal. The appeal being admitted, the appellant was to be informed that if he did not proceed within six weeks from the date of its being filed, his appeal would be dismissed. In all cases in which appeals should have been admitted, the zillah courts were to send up to the provincial courts the original pleadings, depositions, exhibits, and every original paper read in the cause. All process and orders of the provincial court, in appeal cases, were to be transmitted for service or execution to the zillah courts, who were to make a return to the provincial courts of what they had done in the matter. Whenever it should appear to a provincial court that a suit had not been sufficiently investigated in the zillah court, they might either take such further evidence as should be necessary and give judgment thereon, or remand the suit to the zillah court, with instructions to take further evidence. In cases where the provincial court should take the further evidence themselves, the witnesses might be examined by the judges, or under their orders by the registrar, in the presence of the parties or their vakeels, who were to be at liberty to pnt any questions to the witnesses that they might think proper.

The course of proceeding in the trial of suits, original or appealed, before the provincial court, was to be the same as that prescribed for the zillah courts. Their decrees were to be final for sums not exceeding 1,000 rupees.

Regulation XLVII.—1793.

Number of Judges necessary to pass a Decree.

This Regulation enacted, that two judges should be necessary to hold a court of appeal, and that no decree in a suit or appeal should be valid, unless passed by two judges present in court. Reg. XLVII. 1793.

Regulation XII.—1797.

Decrees of Provincial Courts on Appeals declared final to 5,000 rupees for Personal Property.

The exercise of right of appeal to the Sudder Adawlut from all decisions of the provincial courts for sums above 1,000 rupees having been found to occupy too much of the time of the Sudder Dewanny Adawlut upon questions of comparatively small importance, to the hindrance of proceedings in suits of greater amount, the decrees of the provincial courts were declared by this Regulation to be final to the extent of 5,000 rupees in all cases of personal property. Reg. XII. 1797.

Regulation V.—1798.

Decrees of Provincial Courts declared final to 5,000 rupees for Real Property.

By this Regulation the decisions of the provincial courts, which had before been declared final in suits not exceeding 5,000 rupees for personal property, were made final in cases to the same amount for real property. Reg. V. 1798.

Regulation I.—1807.

Powers of a single Judge of a Provincial Court, extended.

It had been provided by Regulation VII. 1794 (which related chiefly to the duties to be performed by the judges of the provincial courts in the exercise of their criminal jurisdiction) that when one judge should remain at the court station, the other judges being on circuit, such single judge should be enabled to receive petitions, to execute decrees, issue process, and transact other current business, but should not have authority to pass judgments or make orders in the nature of decisions. Reg. I. 1807.

The present Regulation enlarged those powers, providing that more extensive duties should be done by a single judge remaining at the court station (still, however, giving no power of adjudication;) and also imparting the same authority to a single judge when two should be remaining at the court station, if one of the two were unable to attend the court from illness or other cause.

Regulation XIII.—1808.

Original Jurisdiction given to the Provincial Courts.

By the previously existing Regulations, all suits were originally instituted in the zillah courts; an appeal of right lay to the provincial courts; and in all suits above 5,000 rupees, a further appeal was open to the Sudder Dewanny Adawlut. This process had been found to lead to vexations appeals and delay of justice, to remedy which, by this Regulation, original jurisdiction was vested in the provincial courts in suits exceeding 5,000 rupees. Reg. XIII. 1808.

Regulation

* It was explained by Regulation V. 1794, that this discretionary power was not to be extended to admit appeals from decisions passed by any of the Courts existing between the 6th April 1781 and 1st May 1793, in cases in which the judgments of those courts were declared final by the Regulations at that time in force.

Appendix, No. 6.

Regulation XIII.—1810.

Powers of single Judges increased.

Reg. XIII. 1810. The former] ns having required that two judges of the provincial court should always be present to render any act valid, in consequence of which great delay and accumulation of suits had taken place, it was provided by this Regulation, that a single judge should be competent to transact all the current business of the court necessary to the progress of suits, and likewise to pass judgments in cases of appeal, if his opinion confirmed the decree of the court appealed from; but if the single judge should be of opinion that the decree appealed against ought to be reversed, then the matter was to stand over until another judge should be present. It was directed that no judge should sit in the trial of any appeal from a decision passed by himself.

With a view to encourage the adjustment of suits by razeenama, it was provided, that in all original suits or appeals adjusted by compromise, the whole or a portion of the institution fee should be returned, according to the stage of the proceedings at which the razeenamah, or deed of compromise, should be filed.

Regulation V.—1814.

Increase of the Number of Judges of the Provincial and Circuit Courts.

Reg. V. 1814. The preamble to this Regulation stated, that experience had shown that three * judges were inadequate to the performance of the multifarious and laborious duties of the courts of appeal and circuit; in order therefore to make provision for the more regular, uniform, and expeditious trial of civil suits in those courts, and for the more prompt dispatch of other business, this Regulation enacted that each provincial court should consist of four judges, who should exercise both civil and criminal jurisdiction.

Regulation XXV.—1814.

Amending the Constitution and Jurisdiction of the Provincial Courts.

Reg. XXV. 1814. The preamble to this Regulation declared it expedient that such persons only should be appointed judges to the Sudder Adawlut and provincial courts as had been previously employed for a sufficient length of time in the discharge of judicial functions.

To ensure this object therefore, and in modification of existing rules regarding the original jurisdiction of those courts, the Regulation enacted, that no person should be appointed a judge of a provincial court, who had not officiated three years as zillah judge, or six years altogether in the judicial department; and that no person should be appointed a judge of the Sudder Adawlut, who had not officiated three years as judge of a provincial court, or nine years altogether in the judicial department. The following rules were also enacted:

Whenever it should appear, from the pressure of business in any zillah court, that advantage would result from the removal of cases from the zillah to the provincial court, it should be competent to the Sudder Adawlut to order any or all suits exceeding 1,000 rupees to be so transferred.

Whenever it should appear, from the pressure of business in any provincial court, that it would be advantageous to remove cases to the Sudder Adawlut, the last mentioned court might call up and try any suits for sums exceeding 50,000 rupees.

An appeal was declared to lie to the provincial courts in all suits tried in the first instance by the zillah and city judges, and in suits tried by the registrars exceeding 5,00 rupees; and an appeal to the Sudder Adawlut from all decisions in original suits passed by the provincial court.

Special appeals were declared admissible by the provincial courts, from decisions passed on appeals by the zillah courts; and by the Sudder Adawlut, from decisions passed on appeals by the provincial courts.

The Regulation contains some further rules relative to the powers of single judges of the provincial court.

Regulation III.—1829.

For supplying the place of a third Judge, when two Judges of a Provincial Court differed in Opinion.

Reg. III. 1829. By this Regulation a previous rule, by which the senior judge of a provincial court was entitled to a casting voice, was rescinded; and it was provided, that in the event of a difference of opinion in a court consisting of two judges only, the Governor-general in Council should be authorized to issue such instructions as might appear expedient in regard to the selection and nomination of one or more public officers, to whom such cases should be referred; due notice of such nomination to be given to the Sudder Adawlut and the provincial court. If the officer so nominated should reside at the station of the provincial court, he was to exercise the same powers and proceed in the same manner, in the cases brought before him, as the other judges; but if resident at any other station, it should be sufficient that he form and record his judgment, on careful perusal and consideration of the proceedings, and without requiring the attendance of the parties or their vakeels.

* By Regulation I. 1826, it was declared competent for the Governor-general in Council to appoint as many Judges in each provincial court as might be deemed necessary for the due dispatch of business.

PART I.—Civil Judicature—GENERAL—*continued.*

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(1.) Abstract of Regulations for the Administration of Civil Justice.

(C.)—POWERS and DUTIES of the SUDDER DEWANNY ADAWLUT.

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(C.)

POWERS and DUTIES of the SUDDER DEWANNY ADAWLUT.

REGULATION VI.—1793.

Constitution and Jurisdiction of the Sudder Dewanny Adawlut.

THE Preamble declared it necessary to extend the powers and to regulate the proceedings of the Sudder Dewanny Adawlut, being the court of highest resort in civil suits, with reference to those of the zillah and provincial courts, which had been then recently established. The Regulation accordingly enacted as follows: Reg. VI. 1793.

The Court was declared to consist of the Governor-general and the members of the Council; and they were to exercise the same power as the provincial courts in regard to receiving suits, complaints or petitions which had been rejected by the lower courts, and ordering them to admit and proceed in them. In trying suits and appeals, the Sudder Dewanny Adawlut were to follow the course prescribed for the trial of suits in the zillah courts. In cases of charge on oath against a judge of a zillah or provincial court for corruption, the Sudder Adawlut might either try the complaint themselves, or refer it for trial to a commission of judges in the provinces, or they might recommend to Government that the complaint should be prosecuted before His Majesty's Supreme Court of Judicature at the Presidency. The Sudder Dewanny Adawlut were authorized to receive appeals from all decisions of the provincial court for an amount exceeding 1,000 rupees. The course of proceeding in such cases was assimilated to that of the provincial court on appeals from the zillah court. The processes and orders of the Sudder Adawlut were to be served and executed through the provincial courts; if the appellant did not proceed in six weeks after the admission of his appeal, the court were to dismiss the appeal.

The decrees of the Sudder Dewanny Adawlut were to be final, except on appeal to the King in Council in cases above 5,000 *l.*

REGULATION II.—1801.

Separation of the Legislative and Judicial Functions of the Government.

THE Preamble to this Regulation stated, that, notwithstanding the right of appeal from the provincial courts had been limited to decisions in suits for 5,000 rupees and upwards, a great accumulation of arrears had taken place by reason of the various public duties to be performed by the Governor-general and the members of the Supreme Council, who then constituted the Court of Sudder Dewanny Adawlut; that it was essential to the impartial, prompt and efficient administration of justice, and to the permanent security of the persons and property of the native inhabitants, that the exercise of the judicial functions of Government should be distinctly separated from its legislative and executive authority. This Regulation therefore provided that the Court of Sudder Dewanny Adawlut should thenceforward consist of three judges, the chief judge to be one of the civil members of the Supreme Council, and the second and third judges to be appointed by the Governor-general in Council, from among the covenanted civil servants of the Company, not being of the Council. Reg. II. 1801.

Two judges were declared necessary to constitute a court, and no decree was to be valid unless passed by two judges present. A single judge might sit to receive petitions, and transact current business.

This Regulation enacted sundry rules regarding the practice and proceedings of the court.

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Regulation X.—1805.

Chief Justice of the Sudder Dewanny Adawlut not to be a Member of the Council.

Reg. X. 1805.

The Preamble to this Regulation declared that the rule enacted by Regulation II. of 1801, for constituting one of the members of the Supreme Council to be the chief justice of the Sudder Dewanny Adawlut, was not only nugatory, inasmuch as the time of the members of Government was too much occupied to allow of their attending to judicial duties, but that it was also open to the same objections on principle as that which constituted the whole Board of Government to be the Court of Sudder Dewanny Adawlut.

With the view of giving full effect to the provisions made by the Constitution and Regulations of 1793, for ensuring to the people the permanent enjoyment of the inestimable blessings of just laws duly administered, it was declared essential that the separation of the judicial from the executive authority should be complete in all their respective branches and gradations; that the fundamental principles of that constitution should be carried into full and complete execution both in form and in practice. The Regulation therefore enacted that the chief judge of the Sudder Adawlut should be selected from the covenanted civil servants of the Company, not being members of the Supreme Government.

Regulation XV.—1807.

A Member of Council to be Chief Judge of the Sudder Dewanny Adawlut.

Reg. XV. 1807.

This Regulation enacted, that the Court of Sudder Adawlut should consist of a chief judge, being a member of the Supreme Council, and of three puisne judges, selected from the Company's covenanted servants.*

Regulation XIII.—1810.

Powers of single Judges of the Sudder Dewanny Adawlut.

Reg. XIII. 1810.

By this Regulation single judges of the Sudder Dewanny Adawlut were empowered to pass interlocutory orders, and also to give judgments on appeal, if the opinion of the single judge confirmed the decree of the court appealed from.

See Abstract of this Regulation under the head "Provincial Courts."

Regulation XII.—1811.

Constitution of the Sudder Dewanny Adawlut modified.

Reg. XII. 1811.

This Regulation, in adverting to the increased number of trials both in the civil and criminal jurisdiction of the court, enacted that it should consist in future of a chief judge and of as many puisne judges as the Governor-general in Council might from time to time deem necessary for the despatch of business.

Regulation XXV.—1814.

Amending the Constitution and Jurisdiction of the Sudder Dewanny and Foujdarry Adawlut.

Reg. XXV. 1814.

It was provided by this Regulation, that no person should be appointed a judge of the Sudder Dewanny, who had not officiated three years as a judge of the provincial court, or nine years altogether in judicial duties.

The same enactment gave to the Sudder Dewanny Adawlut original jurisdiction (to be exercised at their own discretion by calling up causes from the provincial courts) in cases of such an amount as rendered them finally appealable to the King in Council, namely, 50,000 sicca rupees, or 5,000 *l.*

Regulation IX.—1831.

Enlarging the Powers of single Judges.

Reg. IX. 1831.

The Preamble to this Regulation declared, that the accumulation of appeals from the decisions and orders of the civil and criminal courts, subject to the controlling authority of the Sudder Dewanny and Nizamut Adawlut, had rendered it expedient, with a view to the more prompt execution of the court's duties in its appellate jurisdiction, to enlarge the powers exercised by single judges. For the attainment of these objects, the Regulation enacted, that it should be competent to a single judge to hold a sitting of court, and to pass orders and judgments, and to exercise the following powers. On appeals from the decisions or orders of inferior courts, if no sufficient ground were shown to impugn the correctness of the former decision or order, the single judge might confirm the same, or if such decision or order appeared to him improper, he might refer the matter back to the lower court for revision. Before determining on any matter appealed, the single judge might call for all requisite explanations from the lower court. A single judge might admit a second or special appeal, and might stay the execution of any judgment or order passed by an inferior court.

Whenever four judges should be present in the Sudder Dewanny and Nizamut Adawlut at Calcutta, and there should be an equality of voices in cases requiring a decision by majority, it was declared competent to the court to refer the question at issue for decision to a judge of the Sudder Adawlut in the Western Provinces, who should record his judgment thereupon.

See Reg. VI. 1831, p. 682.

* No reason was assigned in the Preamble for this abandonment of the principle set forth in Regulation X. 1805. Harington states, that it was in consequence of instructions from the Court of Directors, founded on a principle of economy, and a supposition that one of the members of the Supreme Council might be able to officiate as Chief Judge.

PART I.—Civil Judicature—GENERAL—*continued.*

Appendix, No. 6.

(1.) Abstract of Regulations for the Administration of Civil Justice.

(D.)

APPEALS to the KING in COUNCIL.

REGULATION XVI.—1797.

BY this Regulation it was declared, that no rules having been prescribed respecting the appeals from the Sudder Dewanny Adawlut in civil suits for 5,000 *l.* and upwards, authorized by the Statute 21 Geo. 3, c. lxx. sect. 21; and it being necessary to establish such, as well for the information of the parties who might be desirous to appeal from decrees of the Sudder Dewanny Adawlut to the King in Council as for the guidance of the Sudder Dewanny Adawlut, in receiving and forwarding appeals presented to them under the above authority, the Governor-general in Council had referred to the provisions made for the appeal to the King in Council, under His Majesty's charter, for erecting the Supreme Court of Judicature, and approved by His Majesty in Council, as provided by his charter aforesaid, and after due consideration of the said provisions, rules and orders had resolved, that the following rules relative to appeals to the King in His Privy Council, against decisions passed by the Court of Sudder Dewanny Adawlut, should be in force until His Majesty's pleasure be known thereupon, from the 1st January 1798. Reg. XVI. 1797.

All persons desirous of appealing from a judgment of the Court of Sudder Dewanny Adawlut to the King in Council, were required to present their petition of appeal to the Court of Sudder Dewanny Adawlut, either themselves or through one of the authorized pleaders of the court, within six calendar months from the date on which the judgment appealed against might have been passed.

The Court of Sudder Dewanny Adawlut might either order the judgment passed by them to be carried into execution, taking sufficient security from the party in whose favour the same might be passed, for the due performance of such order or decree as His Majesty, His heirs or successors, should think fit to make on the appeal, or to suspend the execution of their judgment during the appeal, taking the like security in the latter case from the party left in possession of the property adjudged against him; but in all cases security was to be given by appellants to the satisfaction of the Sudder Dewanny Adawlut, for the payment of all such costs as the said court might think likely to be incurred by the appeal, as well as for the performance of such order or judgment, as His Majesty, His heirs or successors, might think fit to give thereupon; and after receiving such security, the Court of Sudder Dewanny Adawlut were to declare the appeal admitted, and to give notice thereof to the appellant and respondent respectively, that they might take measures, the one to prosecute, the other to defend the cause in appeal before His Majesty in Privy Council, according to the established mode of proceeding in similar cases.

In all cases wherein the Sudder Dewanny Adawlut might admit an appeal to the King in Council, they were to cause two exact copies to be made of all the proceedings held and judgment or orders given in the case appealed, including the whole of the evidence and documents (translated into English, if the original documents were in any of the country languages), and were to transmit the same as soon as prepared under their official seal and the signature of their registrar, to the Governor-general in Council, for the purpose of being forwarded by the first secure and separate conveyances to His Majesty in Council. The registrar to the Sudder Dewanny Adawlut was also, on the application of the appellant or respondent, to furnish him or them with one or more copies of the proceedings held, and judgment or orders passed in the case appealed, provided they respectively agreed to defray such expenses as might be incurred thereby, but not otherwise; and the registrar was not to deliver such copies when prepared, without the payment of the expense incurred thereby, the amount of which was to be carried to the credit of Government, by whom the necessary expenditure on this account would be made in the first instance.

It was declared that nothing in this Regulation should be understood to bar the full and unqualified exercise of His Majesty's pleasure upon all appeals to him from the decisions of the Sudder Dewanny Adawlut, either in rejecting any he might consider inadmissible under the statute respecting such appeals, or in receiving any he might judge admissible, notwithstanding the provisions made in this Regulation, which had reference to the local jurisdiction only, and particularly to that of the Sudder Dewanny Adawlut, as a necessary rule for their guidance, subject in the whole of its provisions to the ultimate determination of His Majesty in Council.

See ante, Note to Reg. XXVIII. 1814, p. 654.

Note.—Special provisions having been made for the appointment of commissioners to hold judicial inquiries in certain cases, it has been declared in all such cases that whenever the sum of money or value of property adjudged should exceed 5,000 *l.* an appeal was open from the final judgment passed in India to His Majesty in Council; and all such appeals were to be forwarded to England in conformity with the rules prescribed in the foregoing Regulation.

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Regulations for the Administration of Justice.

PART I.—Civil Judicature—GENERAL—*continued.*

(E.)—VAKEELS.

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(E.)

VAKEELS

REGULATION VII.—1793.

Appointment and Duties of Vakeels or Native Pleaders in the Civil Courts.

Reg. VII. 1793. (Rescinded by Reg. XXVII. 1814.)

THE Preamble to this Regulation stated that the persons heretofore employed by suitors in the courts to conduct their cases belonged to one of two classes, viz. private servants or dependants of the parties, specially appointed for the occasion; or, 2dly, men who followed the business of vakeels to obtain a livelihood, and who appeared in the courts of justice or wherever else the concerns of their constituents might require their attendance. The former class were altogether unacquainted with the constitution and forms of the courts, and protracted the trials by irrelevant proceedings; and being equally ignorant of the Hindoo and Mahomedan Law, and of the Regulations of the British Government, were incapable of rendering efficient assistance to their clients, or of judging of the merits or propriety of the decisions or proceedings of the courts. The second class, though better acquainted with the practice of the courts, had very little knowledge of the laws and regulations, and were under no check, either of rules or of public opinion; and no regulations having existed with regard to their remuneration, they had an interest in protracting the suits. The great body of the people were necessarily prevented from acquiring sufficient knowledge of the laws and regulations to be enabled to plead their own causes; it was therefore indispensably necessary that the pleading of causes should be made a distinct profession, and that no person should be admitted to plead in the courts but men of character and education, versed in the Mahomedan or Hindoo Law, and in the Regulations passed by the British Government, who should be subjected to rules and restrictions calculated to secure to their clients a diligent and faithful discharge of their trusts. The appointment of such a class of pleaders would both assist the courts in developing the points of the case, and also be a check upon them, by exposing every deviation from the law which should occur in their judgments. It was proper that clients should be at liberty to select such of the pleaders as they had most confidence in; and pleaders must be secured in their office and appointments so long as they should conform to the Regulations under which they might act. With such assistance, parties might at all times command the exercise of the judicial powers of Government lodged in the court for the redress of any injuries which they might have sustained in person or property, in conformity with the principles above declared, the chief enactments of the Regulation were as follows:

The appointment of pleaders, as well for the Sudder Dewanny Adawlut as for the provincial and zillah courts, was vested in the Sudder Adawlut. Pleaders were to be selected from among such students in the Mahomedan College at Calcutta, and the Hindoo College at Benares, as should be found qualified and were desirous of being admitted to plead in any of the courts. If the colleges should not furnish a sufficient number of pleaders, the Sudder Dewanny Adawlut were to admit any other persons, provided they were Mahomedans or Hindoos, and men of good character and liberal education. A preference was in all cases to be given to persons who had been bred to the study of the Hindoo or Mahomedan Law. Pleaders were to be sworn to the faithful discharge of their duties. All Regulations enacted by the Government, as soon as they had been passed and translated, were to be deposited on a table in the court room, for the inspection of the pleaders and all other persons who might desire to refer to them, and to take copies or extracts.

Upon engaging a pleader, the client was to give him a retaining fee of four anas, and a vakalutnamah or power of attorney: the fees of pleaders were fixed at the following rates in all the courts alike:

On sums not exceeding	1,000	rupees,	5 per cent.
Ditto	5,000	„	4 „
Ditto	10,000	„	3 „
Ditto	25,000	„	2 „
Ditto	50,000	„	1 „
Ditto	100,000	„	¾ „
On sums above	100,000	„	½ „

The above fees to be payable to the pleaders on the decision being passed. Suitors might retain more than one pleader, but the opposite party should be only charged in costs for one pleader.

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(1.) Abstract of Regulations for the Administration of Civil Justice.

pleader. Pleaders might receive a fee of four anas for petitions or motions not relating to suits in which they were engaged; but every portion of the business of the suit in which they had been retained was to be performed for the general fee before mentioned. Pleaders might be suspended by the court for promoting or encouraging litigious suits, or for frauds or gross misbehaviour; the suspension was to be reported to the Sudder Adawlut, who might dismiss the pleader if guilty, or might fine him. The Sudder Adawlut were to appoint pleaders on behalf of the Government in the several courts, who were to conduct all public suits, on receiving an official order to that effect. Government pleaders were to be at liberty to act in all suits except on behalf of the opponents in suits against the Government; they were to receive the same fees in Government suits as in other cases. Parties might change their pleaders in the course of the suit, at any time before the passing of judgment.

By Reg. VIII. 1797, this power was transferred to the Governor-general in Council.

Regulation XXVII.—1814.

Consolidating and amending the Rules regarding Vakeels.

Reg. XXVII. 1814.

The Preamble to the Regulation stated its several objects to be the transfer to the provincial courts of the control till then exercised by the Sudder Dewanny Adawlut, in the appointment and removal of vakeels in the zillah, city and provincial courts; to authorize vakeels to receive fees for legal opinions which they may furnish, such measure having a tendency to facilitate the adjustment of disputes; to authorize them to act as arbitrators under the general Regulations, and to reduce into one Regulation the whole of the provisions applicable to the office of vakeel. The Regulation accordingly enacted, that vakeels shall be liable to dismissal and fine by courts for encouraging or promoting litigious suits, or receiving more or less than their authorized fees, and for neglect of their clients' business. The power of dismissal was vested in the provincial courts; that of fining, in the court to which they were attached.

The courts were empowered to permit any of the authorized vakeels of their respective courts to be arbitrators in depending suits, subject to the rules in force for referring suits to arbitration.

Vakeels were authorized to receive from any party desirous of their opinion regarding the legal validity or sufficiency of any claim, right, or title which he might suppose himself to possess, and on the expediency of prosecuting or defending it before a civil tribunal. The pleader having attentively considered the laws, usages, regulations or precedents, applicable to the case, and the proofs and arguments by which it might be supported, was to furnish to the party a written declaration of his opinion, and of the grounds upon which it might be formed; the fees to the pleader were to be—

To vakeels of Sudder Dewanny Adawlut, - - - -	24 rupees.
Ditto - - Provincial Courts - - - - -	16 „
Ditto - - Zillah and City Courts - - - -	8 „

Any pleader furnishing an opinion evidently calculated to promote the institution of unfounded or litigious suits, or discourage the amicable adjustment of dubitable claims, was declared liable to dismissal from office.

In all suits the amount of the pleader's fees were to be deposited by the suitor before the pleader could be permitted to act, and they were to be paid over to the vakeel on the decision of the suit, subject to certain deductions at the discretion of the court where the case had not been fully proceeded in.

The rate of remuneration to the vakeels was established as follows:

On the first - - - - -	5,000 rupees	- - - 5 per cent.
On the next - - - - -	15,000 „	additional 2 „
On the next - - - - -	30,000 „	„ 1 „
Above - - - - - -	80,000 „	the fee to be 10,000 rupees, and not to exceed that sum.

In each court there was to be one or more pleaders appointed on behalf of Government, besides which, other pleaders* of the court might be specially retained on behalf of Government, when that measure should appear necessary to the public authorities directing the suit.

The Regulation was declared not applicable to pleaders in moonsiffs' courts, and it was declared that the Regulation was not to be construed to prevent any individual from pleading his own cause in person.

Regulation XI.—1826.

Qualification for Admission to practise as Vakeel.

Reg. XI. 1826.

By this Regulation, native students educated in any of the public institutions, who should have received a certificate in a prescribed form, certifying their qualifications as to proficiency in the Hindoo and Mahomedan Law, and in the Regulations of the British Government, might be admitted to practise as vakeels in any city or zillah court, on application to that effect.†

* It was enacted, by Regulation IX. 1831, that in applications for the admission of special or summary appeals, the parties should be at liberty to settle with the vakeels the amount of fees to be paid, such amount not to exceed one-fourth of the fees in regular suits, and to be liable to reduction by the courts, if appearing to them to be excessive.

† By Reg. V. 1831, the office of vakeel was declared open to Hindoos and Mahomedans of all religious persuasions.

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(F.)

NATIVE COMMISSIONERS.

REGULATION XL. 1793.

Establishment and Jurisdiction of Native Judges styled "Commissioners."

Reg. XL. 1793. (Rescinded by Reg. XXIII. 1814.)

THE Preamble recited that inconvenience and expense would be occasioned to parties if they should be compelled to repair from all parts of a zillah to one court, in order to institute petty suits, and that great obstruction to the course of justice must ensue, if the time of the zillah judges were occupied in the decision of trifling cases. The Regulation therefore provided for a class of native judges, to be denominated generally "Commissioners," and to exercise their functions in three different characters, viz. as *ameens* or referees, as *salis* or arbitrators, and as *moonsiffs* or judges of original jurisdiction. Their jurisdiction was limited to suits not exceeding 50 rupees; they were to be nominated by the judges of the zillah and city courts, and to be approved by the Sudder Dewanny Adawlut, by which court only they could be removed. The cauzees of cities and pergunnahs were to be commissioners *ex officio*; the judges of the city courts were to nominate a sufficient number of other commissioners to officiate within their respective jurisdictions. The commissioners were to be persons of acknowledged good character and ability. They were to be selected from the zemindars, farmers, principal revenue officers, creditable merchants and traders, and jaghirdars; they were to be sworn to the administration of their duties, and were declared liable to prosecution in the civil court for corruption or for oppressive and unwarranted acts of authority.

As ameens, the commissioners were to try such cases within the prescribed limitation of amount as the zillah judges should refer to them, and to proceed in the trial in the mode prescribed for the trial of suits before the zillah court.

As arbitrators, they might decide suits without application to the court, provided arbitration bonds were duly executed to them by the parties agreeing to abide by their decision, and to make the award a decree of court.

Moonsiffs, being zemindars or farmers of land, revenue officers or jaghirdars, were empowered to receive and try of their own authority, suits preferred to them against under renters and ryots or cultivators of land within the limits of the estate, farm or jaghire, in virtue of which they had been appointed commissioners, but not against merchants, traders or persons holding only land attached to their dwelling-houses or for gardens.

The Commissioners were not to enforce their own decrees, which could only be carried into execution by the zillah courts. On the 5th of every month the commissioners were to transmit a report of causes decided, accompanied by all original documents to the zillah court, who thereupon were to enforce their decision, unless appealed against within thirty days after the date of the decree. Quarterly reports were to be made of causes undecided.*

REGULATION

* By Sec. viii. Reg. XXXV. of 1795, Commissioners were authorized to sell distrained property attached for arrear of rent. By a special Regulation, XVIII. of 1797, (rescinded by Regulation XXIII. of 1814,) jurisdiction was given to the native commissioners in the zillah Chitagong in the character of ameens, to decide suits for landed property of the value of 50 rupees, if malguzary, or 5 rupees, if lakhiraj; such commissioners to be specially nominated by the zillah judge, and to be styled commissioners of land suits.

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REGULATION XLIX.—1803.

Establishing Moonsiffs on a new Principle.—Sudder Ameens.

THE provisions for the appointment of native commissioners with the power of moonsiff, under Regulation XL. 1793, were declared in the Preamble to this Regulation to have been intended chiefly for the benefit of landholders, with a view of enabling them to recover arrears of rent from their under tenants. More efficient means for the attainment of this object having been provided by Regulation VII. 1799, it was enacted by this Regulation, that the sunnuds formerly given to moonsiffs should be recalled, and that a new body of moonsiffs should be appointed, in the selection of whom the zillah judges were not to be restricted to any particular descriptions of persons, provided they were of good character and sufficient ability, and duly qualified by education and past employments for the discharge of their duty. The extent of their several jurisdictions was to be commensurate with that of the several police divisions, and their courts were to be held at the principal market towns or in central situations in the districts; they were authorized to receive and try suits against native inhabitants of their respective jurisdictions, for sums not exceeding 50 rupees. Reg. XLIX. 1803. (Rescinded by Regs. XXIII. & XXIV. 1814.)

It having been found that the general liberty given to suitors in the commissioners' courts to employ any person as vakeel, had given rise to a class of men of bad character, who frequented the courts of the commissioners for the purpose of being employed as vakeels, and who promoted litigation from motives of self-interest; the Regulation enacted, that no person should be allowed to act as vakeel before a native commissioner, unless he were a relation, servant or dependant of the person for whom he so acted, or unless he had received a sunnud of appointment from the zillah court, and it was declared competent to the city and zillah judges, whenever they should see fit, to appoint respectable and competent persons to practise in the commissioners' courts, and to hold their appointment during good conduct. These vakeels were to settle with their constituents the fees which they were to receive for conducting their suits. The fee so agreed upon was to be specified in the power of attorney or vakalutnamah.

This Regulation further provided for the appointment of a head native commissioner in any city or zillah, when such appointment might appear advisable, on the representation of the judge, for the trial of such suits as should be referred to him by the judge, to an amount not exceeding 100 rupees of personal property or malguzary land, or 10 rupees of lakhiraj land; such commissioner to be denominated *sudder ameen* of such zillah or city. The suits in the sudder ameen's court were to be pleaded either by the parties or by a regular vakeel of the zillah or city court. The pleadings were not required to be on stampt paper, nor were fees to be taken on exhibits.

REGULATION XV.—1805.

Law Officers declared to be ex officio *Sudder Ameens.*

THE Preamble recited, that by the existing Regulations provision had been made for the appointment of only one sudder ameen, or head native commissioner, in each city or zillah, and that it appeared expedient that the Hindoo and Mahomedan law officers of the zillah and city courts should be *ex officio* sudder ameens; because the salary which they received from Government, and their general respectability of character and superior knowledge, afforded the strongest ground of confidence that the powers of referee, in such causes as the judges might deem proper to refer to them, would be exercised with integrity and impartiality. This Regulation therefore enacted, that the law officers of the zillah and city courts should, in virtue of their offices, be head commissioners or sudder ameens, for the trial of referred causes not exceeding 100 rupees; and should be entitled to receive as compensation the institution fees paid in all suits decided by them on investigation of the merits, or adjusted by razeenamah; and further, that it should be competent for the Sudder Dewanny Adawlut to appoint two or more sudder ameens at any city or zillah, in addition to the law officers, whenever it might appear requisite to them so to do. Reg. XV. 1805.

REGULATION XXIII.—1814.

Revised and amended Rules for the Office of Native Commissioner.

THE objects of this Regulation were stated in the preamble to be, to revise and amend the rules for constituting the office of moonsiffs or native commissioners, to extend the jurisdiction of those officers with a view of expediting the trial and decision of civil suits, and, in order to contribute to the public convenience, to transfer to the provincial courts the control now exercised by the Sudder Dewanny Adawlut, in the appointment and removal of native commissioners. The Regulation abolished the office of native commissioner as constituted by Regulation XL. 1793, and directed that the judges of the zillah and city courts should prepare and submit to the provincial courts new establishments of moonsiffs, whose local jurisdictions should be so arranged as to correspond with those of thanahs or local police jurisdictions. The persons to be selected for the office were to be either Hindoos or Mahomedans, and the preference to be given to such of the pergunnah or city cauzees as might appear duly qualified for the trust; their appointment or removal was vested in the provincial Reg. XXIII. 1814.

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cial courts. Moonsiffs were empowered to receive, try and determine all suits referred to them against any native inhabitant of their respective jurisdictions, for money or personal property not exceeding in amount or value 64 rupees; they were to be sworn to the faithful discharge of their duties, and were to be subject to civil and criminal prosecutions for corruption, extortion or oppression. Suits before them were to be conducted either by the parties or by persons connected with them; authority was however given to the zillah judges, if they should deem it necessary, to appoint fit persons by a sunnud from themselves, to practise as vakeels in the moonsiffs' courts.

A stamp duty was to be levied on every plaint, at the following rates:—

Not exceeding 16 rupees	- - - -	½ rupee.
Ditto - 32 ,,	- - - -	2 ,,
Ditto - 64 ,,	- - - -	4 ,,

The further pleadings were not required to be on stamp paper.

The course of proceedings in the trial of suits was laid down in conformity generally with the proceedings of other courts of judicature; reports were ordered to be transmitted to the zillah judge monthly, of suits decided, and half-yearly of depending suits. The decrees of the moonsiffs were to be executed by the zillah court, on application for that purpose to the judge by petition. An appeal was to lie from the decisions of the moonsiffs to the zillah judge. In compensation for their labours, the moonsiffs were to receive the amount of the stamp duty on the plaint in every suit, whether decided by them on the investigation of the merits, or adjusted between the parties by razeenamah.*

Power was further given by this Regulation to the zillah and city judges, to refer for inquiry by moonsiffs, questions relating to the adjustment of accounts in mercantile or revenue transactions, or regarding boundaries or rights in land, or regarding the quantity or description of any land, the rent† to which it was liable, and generally all questions of local rights and usages which could not conveniently be decided without an inquiry on the spot; and the proceedings of the moonsiffs on points so referred to them were to be received as evidence in the case. The zillah judges were further authorized to employ moonsiffs to put parties in possession of unmovable property under the decree of the court, as well as in the attachment and sale of personal property; the ascertaining the sufficiency or otherwise of securities; and inquiring into the indigence of persons applying to sue as paupers.

Regulation XIX.—1817.

Extension of Powers of Native Commissioners.

Reg. XIX. 1817.

Under the provisions of Regulation XXIII. of 1814, moonsiffs were empowered to try original suits to a limited amount, provided the cause of action should have arisen one year previous to the institution of the suit; the present Regulation extended the period of cognizance to three years.

Regulation II.—1821.

Sudder Ameens.

Reg. II. 1821.

By this Regulation it was provided, that one or more sudder ameens might be appointed to hold their courts at any station where a registrar should be fixed, holding his court at a distance from the zillah or city court.

A power was vested in the Sudder Adawlut, of authorizing sudder ameens to try original civil suits which might be referred to them by the judge, in which the claim did not exceed 500 rupees.

The provincial courts were authorized to augment from time to time the number of moonsiffs, on the recommendation of a zillah or city judge, and the jurisdiction of moonsiffs in suits receivable of their own authority was extended to 150 rupees.

Regulation

* By a provision of Regulation XIII. 1810, sect. 11, the whole of the institution fee was to be returned to the parties, if they filed a razeenamah before the pleadings were completed and read, or a moiety of it, if after the completion of the pleadings. This provision was intended to encourage the compromising of depending suits; in practice, however, it proved to have an opposite effect, for the commissioners and vakeels united their exertions to prevent compromises, which lessened their receipts. *See* Parliamentary Papers, 1st July 1819, page 121.

† The term "rent" is commonly used to designate the payments made by the ryots to the zemindar, or other representative of the Government in the collection of its dues. The term "revenue" is employed in the Regulations to designate the payments made by the zemindar, or other person, into the public treasury on account of the Government share of the produce of the soil.

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Regulation XIII.—1824.

Extension of Powers of Sudder Ameens.

This Regulation was enacted to render the services of sudder ameens more extensively available in the administration of civil justice, and to encourage the faithful discharge of their duty, by allowing them a fixed and liberal reward for their services; it accordingly enacted, that the remuneration of sudder ameens by fees on the decision of suits should cease, and that they should receive from the Government such monthly allowances as should be fixed for them. Reg. XIII. 1824.

The interest of the moonsiffs in the fees being thus at an end, the Regulation enacted, with the view of encouraging the adjustment of suits by compromise, that in cases in which the compromise should be filed before the pleadings were completed, the whole of the stamp duty on the plaint should be returned; or if filed after the pleadings were completed and before judgment, a moiety thereof should be returned.

The judges and registrars were authorized to refer pauper suits to the decisions of sudder ameens, and those officers might also be employed in inquiries into the truth of alleged pauperism.

Regulation IV.—1827.

Further Increase of Powers of Sudder Ameens.

With a view of lessening the accumulation of civil suits in the zillah and city courts, it was declared by this Regulation to be competent to the Sudder Dewanny Adawlut to invest any sudder ameen, exercising his functions at the zillah or city court station, with original jurisdiction to the extent of 1,000 rupees. Reg. IV. 1827.

It was also declared competent to zillah and city judges to refer to sudder ameens suits in which British European subjects, or European foreigners or Americans might be parties.

It was further provided, that appeals from the judgments of the sudder ameen in cases exceeding 500 rupees, should not be referrible to the registrars, but should be tried by the zillah judges, whose decree should be final; except on the admission of special appeal by the provincial court.

The power of increasing the number of sudder ameens, granted by Regulation XXIII. of 1814, was withdrawn from the provincial courts, who were required to report on such subjects for the consideration and orders of Government.

Regulation V.—1831.

Establishment of principal and subordinate Sudder Ameens with extended Jurisdiction.

The Preamble to this Regulation declared, that the state of civil business rendered it desirable, on general grounds, to employ respectable natives in more important trusts connected with the administration of the country; and in connexion with these arrangements, to modify the powers and duties of the zillah, city and provincial courts. It also stated it to be just and proper, that no native of India should be considered ineligible to the office of moonsiff or vakeel, on account of his religion. It was accordingly enacted, that it should be competent to the Governor-general in Council to introduce the operation of this Regulation from time to time into any district, by an order in council to be notified by a proclamation. The existing establishments of moonsiffs were to be revised and regulated in such manner as the Governor-general in Council should be pleased to direct. The jurisdiction of moonsiffs was extended to suits for personal property, or malguzary land not exceeding 300 rupees. The moonsiffs were to administer the law of the defendant, if a Mahomedan or a Hindoo, and were to require an exposition of such law by reference in writing to the law officer of the zillah court; in cases not coming within this rule, the moonsiffs were to decide according to justice, equity and good conscience. In cases of succession to landed property, moonsiffs were to post up a notification of the claim in their courts and in the village, and in giving judgment in such suits, where more than one person might be entitled to share in the property, the decree was to adjudge to each claimant the proportion to which he was entitled. Plaints in suits before the moonsiffs were declared subject to the stamp duties prescribed by Regulation X. of 1829; but the other pleadings and proceedings before them were exempted from stamp duties. Suits instituted in the zillah courts for an amount within the jurisdiction of the moonsiffs, were to be chargeable with stamp duties in common with all other suits before them. The decrees of moonsiffs were to be executed under the orders of the zillah judge, who might either direct the moonsiff himself to carry the decree into execution, or might employ a sudder ameen for that purpose, or might cause its execution by the officers of his own court. Moonsiffs were to receive a monthly allowance from Government in lieu of fees. Reg. V. 1831.

The number of *sudder ameens* might be extended at the discretion of Government, and the office was declared open to natives of India of any class or religious persuasion. The Mahomedan and Hindoo law officers of the zillah and city courts were declared to be no longer *ex officio* sudder ameens, but to be eligible to that office like other individuals. The powers of sudder ameens were declared to be as follows:—

Zillah judges might refer to them original suits for personal or real property, not exceeding 1,000 rupees; in which the sudder ameen himself or his dependants, had not an interest, and in which no European or American was a party. Process was to be signed by the sudder ameen, and served by his own officers.

It was declared no longer competent to a zillah judge to refer appeals to the sudder ameens, but when his file might be overloaded, he might make special application to the

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Sudder Dewanny Adawlut, for authority to refer a specified number of appeals to the principal sudder ameen. When appeals should be preferred to a zillah judge from the decision of a moonsiff or principal sudder ameen, if the zillah judge on perusal of the record and of the petition of appeal should see no reason to alter the decision, he might confirm the judgment without calling upon the respondent for his answer.

One or more *principle sudder ameens* might be appointed to any zillah by the Governor-general in Council. The office was declared open to any native, and was to be held under a commission from Government. Zillah judges might refer to the principal sudder ameens any suit for personal or real property not exceeding 5,000 rupees; the defendant not being a dependant, nor an European nor American. The zillah court might authorize any of their own vakeels, or those of the sudder ameen's court, to practise in the principal sudder ameen's court.

Zillah judges were empowered to authorize the principal sudder ameens to grant reviews of their own judgments, under the existing rules regarding reviews of judgment. The principal sudder ameens might execute their own decrees; whenever zillah judges might retain on their own files suits within the cognizance of the principal sudder ameens, they were to record in writing their reasons for so doing. Sudder ameens and principal sudder ameens were to appoint and remove their own ministerial officers.

* *See* Reg. I. 1829, "Courts of Circuit."

If a zillah judge should be of opinion that any principal or sudder ameen was unfit to be continued in office, and if the commissioners of revenue and circuit should concur in that opinion, they were to submit a joint report to the Governor-general in Council, who, if he should see sufficient cause, would remove the ameen; but no principal or sudder ameen was to be removed without the sanction of Government. Moonsiffs were declared to be removable by the Sudder Dewanny Adawlut, on a like report from the judge and the commissioners of revenue and circuit. Zillah judges were declared competent to suspend sudder ameens; and further, in case of the commissioners of revenue and circuit dissenting from the judge, the latter might transmit his opinion to the Governor-general in Council, accompanied by a copy of any dissent which the commissioners might deem it necessary to present on the occasion. In like manner the single opinion and report of a commissioner of circuit might be presented. Principal sudder ameens were declared liable to prosecution for corruption or malversation, but not for error in proceeding.

In whatever zillah or city the provision of this Regulation should be carried into effect, the jurisdiction of the provincial court was to cease, except in regard to pending suits; and the zillah court was to have primary jurisdiction in all suits exceeding 5,000 rupees. In appeals from the decisions of the moonsiffs or sudder ameens, the decision of the zillah judge was to be final. From decisions by the principal sudder ameens, the first appeal was to be to the zillah judge, and a special appeal to the Sudder Dewanny Adawlut. From original decisions of the zillah judge, the appeal was to lie to the Sudder Dewanny Adawlut.

Wherever the provisions of this Regulation should have effect, the reference of suits to the registrars was to cease, and the suits referred to them were to be recalled, and referred to the sudder ameens or principal sudder ameens.* The office of vakeel was declared to be open to Hindoos and Mahomedans of all religious persuasions.

PART I.—Civil Judicature—GENERAL—*continued.*

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(G.)

FEES on the Institution of SUITS and APPEALS and STAMP DUTIES, as affecting the Administration of Justice.

REGULATION XXXVIII.—1795.

Establishment of Fees on the Institution of Civil Suits.

THE Preamble to this Regulation declared, that as no expense attended the first institution of suits, and the fees which became payable in its course were moderate and limited, litigation had been encouraged, and causes had accumulated to so great an extent, as to impede the due course of justice. It was therefore thought advisable to establish fees on the institution of suits, and in their progress, and on the presentation of petitions, as the best mode of checking the abuse of the ready means existing for recourse to the laws, without obstructing the bringing forward of just claims. Reg. XXXVIII. 1795. (Superseded by Regns VI. 1797 and I. 1814.)

The Regulation accordingly provided, that on the institution of every original suit or appeal, a fee should be paid, called the institution fee, at the following rates:—

In the court of the moonsiff or native commissioner - - 1 ana per rupee.

In the European courts, without distinction, as follows:

On the first	50 rupees - - - - - -		6 ¼ per cent.
next	150 „ - - - - -	additional	3 ⅛ „
„	800 „ - - - - -	„	3 „
„	4,000 „ - - - - -	„	2 „
„	20,000 „ - - - - -	„	1 „
„	25,000 „ - - - - -	„	½ „
On all above that amount	- - - -	„	¼ „

REGULATION VI.—1797.

Stamp Duty to be levied on Law Papers and Money Securities.

The Preamble to this Regulation referred to a previous enactment (XXIII. of 1793,) which had provided for the levy of a tax from merchants and shopkeepers, to defray the expenses of police; and it declared that difficulties having been experienced in determining what persons were liable to be taxed under that Regulation, and in fixing the general amount and individual proportions of the tax, and frauds and exactions having taken place in the assessment and collection, to the vexation of the contributors, as well as to the diminution of the produce of the tax, it was resolved to abolish the police tax, and to substitute stamp duties, to provide for the deficiency which would be occasioned in the public revenue by the abolition of that tax. The Regulation accordingly provided for an increase in the rate of institution fees; for the levy of fees on filing exhibits, and summoning witnesses; and established stamp duties on pleadings, petitions, and securities for money. And with a view further to check litigious complaints, and to discourage the filing of superfluous exhibits, and the summoning unnecessary witnesses, the rate of institution fees was increased; fees were imposed Reg. VI. 1797.

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imposed on the filing of exhibits, the summoning of witnesses; and stamp duties were established on pleadings, petitions and securities, at the following rates:—

NEW INSTITUTION FEES, before the European Courts.

On the first	200 rupees	- - - - - -	6½ per cent.
next	800 „	- - - - additional	4 „
„	4,000 „	- - - - - -	3 „
„	20,000 „	- - - - - -	2 „
„	25,000 „	- - - - - -	1 „
On all above that amount		- - - - - -	-½ „

FEES payable for each EXHIBIT filed, and for each WITNESS summoned, in SUITS before the European Courts.

In suits, if not above 200 rupees - - - - - -	8 anas.
Above 200 rupees, but below the amount appealable to the Sudder Adawlut - - - - - - - - - -	1 rupee.
In suits for an amount appealable to the Sudder Adawlut - -	2 rupees.

These new fees were declared equally leviable on all appeals, as on original suits.

STAMPS.

All pleadings filed in the European courts were required to be written on stamp paper of a prescribed size, at the following rates per sheet:—

In suits not exceeding 100 rupees - - - - - -	4 anas.
„ „ 200 „ - - - - - -	8 „
Above 200 rupees, but not appealable to the Sudder Adawlut -	1 rupee.
Suits appealable to the Sudder Adawlut - - - - -	2 „

Stamps of the above value were also declared necessary on all miscellaneous petitions, and applications presented to the several courts of judicature, and on all copies of papers furnished by those courts.

Stamps were also required to be used after the 31st of December 1797, for all bonds, promissory notes, and other obligations for the payment of money, at the following rates:—

Above 50 rupees, not exceeding 100 rupees - - - -	4 anas.
100 „ „ „ 1,000 „ - - - -	8 „
1,000 „ - - - - - - - - -	1 rupee.

Sec. vi. Reg. VII. 1809.

A stamp was also prescribed of the value of 25 rupees, to be affixed to the sunnud of appointment of every cauzee or vakeel in a court of justice. This was afterwards discontinued.

REGULATION X.—1797.

Extension of Stamp Duties to Proceedings in the Criminal Department.

Reg. X. 1797.

COMPLAINTS preferred before the magistrates for misdemeanors which they were competent to try, were directed to be written on stamp paper, at the rate of 8 anas per sheet.

In 1800, it appeared that the amount of stamp duties imposed by Regulation VI. 1797, had proved very inadequate to supply the deficiency of revenue occasioned by the abolition of the police tax. For the purpose therefore of increasing the revenue derivable from that source, and to explain and amend certain parts of the Stamp Regulation, the Government enacted Regulation VII. 1800.

REGULATION VII.—1800.

Further Extension of Stamp Duties on Money Securities.

Reg. VII. 1800.

THE stamps on securities for money were now extended to drafts and bills of exchange, to all acknowledgments for the receipt of money, at the following rates:—

From	16 rupees	to	64 rupees	- - - - - -	2 anas.
„	64 „		125 „	- - - - - -	4 „
„	125 „		250 „	- - - - - -	8 „
„	250 „		500 „	- - - - - -	1 rupee.
„	500 „		1,000 „	- - - - - -	2 „
„	1,000 „		2,000 „	- - - - - -	4 „
Above	2,000 „		- -	- - - - - -	8 „

It was also directed that in cases of appeal from the Sudder Adawlut to the King in Council, the two copies of proceedings required to be transmitted to His Majesty in Council, according to Section lxv. of Regulation XVI. 1797, as well as copies for all of the parties themselves, should be written on stampt paper, of one rupee value per sheet.

Original deeds for the transfer, mortgage or assignment of real or personal property, and deeds of contract or agreement, and all copies thereof intended as legal vouchers, to be written on stamp paper, from four anas to two rupees, according to the size.

Applications to the registrars of the Adawlut courts for the registry of deeds, under Regulation XXXVI. 1793, and XXVIII. 1795, and all copies of deeds furnished by the registrar were to be written on paper with a stamp, from four anas to two rupees, according to the size.

The courts were forbidden to receive in evidence any of the foregoing documents, if not written on the prescribed stamp; but provision was made for affixing the stamp to papers after they were written or executed, in certain cases.

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Regulation XLIII.—1803.

Modification of the Rules for Stamps on Law Papers.

With a view to the further discouragement of litigious complaints, and the production of unnecessary evidence, the fees on the institution and trial of suits, and for the stamps to be attached to certain papers, were further modified. Reg. XLIII. 1803.

Fees.—Institution Fee.

In suits before the moonsiff - - - - - -	6¼ per cent.

European Courts.

On the first 200 rupees - - - - - -	6¼ per cent.
next 800 „ - - - - - -	4 „
„ 4,000 „ - - - - - -	3 „
„ 20,000 „ - - - - - -	2 „
„ 25,000 „ - - - - - -	1 „
On all the excess above 50,000 rupees - - - -	½ „

Fees on Exhibits and for Witnesses summoned or examined.

In suits not above 200 rupees - - - - -	8 anas.
Above 200 rupees, not exceeding 1,000 rupees - -	1 rupee.
„ 1,000 „ - - - - - - - -	2 „

The fees for exhibits were declared chargeable on all documents accompanying miscellaneous petitions, though not forming part of any suit or appeal.

Stamps on pleading in suits before the European courts, whether original or on appeal, on all miscellaneous petitions, and all applications to the zillah registrars for the registry of deeds, according to the value of the property affected or concerned.

100 rupees - - - - - - - - -	4 anas.
100 „ not exceeding 200 rupees - - - -	8 „
Above 200 rupees „ 1,000 „ - - - -	1 rupee.
„ 1,000 „ - - - - - - - -	2 „

Copies of decrees of the European courts, prepared for delivery to the parties, and all copies of judicial papers prepared by the courts for the suitors, to be written on stamp paper of the respective value of—

1 rupee, ½ „, ¼ „, ⅛ „ } per sheet, according to size.

The sunnuds of cauzees, and the vakeels in the European courts, to be written on stamp paper of 25 rupees.

This Regulation further directed that five per cent. be deducted from all fees payable to the vakeels or native pleaders, and carried to the account of Government.

Regulation I.—1814.

Consolidated and amended Stamp Regulation.

In 1814 the former Rules having been found wanting in clearness, and abuses having been discovered in the collection of the fees, it was resolved to consolidate the institution fee with the stamp duties, and this Regulation was accordingly passed, condensing the former rules into one Regulation, with the following alterations, to take effect from the 1st May 1814. Reg. I. 1814.

The stamps for bonds, promissory notes, bills of exchange, letters of credit, or other obligations for the payment of money, for all receipts, all deeds of transfer of property, real or personal, all leases, mortgages, and assignments of land, and all deeds of contract, were fixed at the following rates:

			Not exceeding	16 rupees	-	-	1 ana.
Above	16 rupees	„	„	64 „	-	-	2 „
„	64 „	„	„	125 „	-	-	4 „
„	125 „	„	„	250 „	-	-	8 „
„	250 „	„	„	500 „	-	-	1 rupee.
„	500 „	„	„	1,000 „	-	-	2 „
„	1,000 „	„	„	2,000 „	-	-	4 „
„	2,000 „	„	„	5,000 „	-	-	8 „
„	5,000 „	„	„	10,000 „	-	-	16 „
„	10,000 „	„	„	20,000 „	-	-	32 „
„	20,000 „	„	„	50,000 „	-	-	50 „
„	50,000 „	„	„	100,000 „	-	-	100 „
„	100,000 „	-	-	- -	-	-	150 „

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The fees on the institution of suits, and on summonses and exhibits, were discontinued, and in lieu thereof were substituted a stamp on the paper on which the plaint or petition should be written, at the following rates :—

In suits for sums not exceeding					16	rupees	-	-	-	1 rupee.
„ above	16	rupees	„		32	„	-	-	-	2 „
„ „	32	„	„		64	„	-	-	-	4 „
„ „	64	„	„		150	„	-	-	-	8 „
„ „	150	„	„		300	„	-	-	-	16 „
„ „	300	„	„		800	„	-	-	-	32 „
„ „	800	„	„		1,600	„	-	-	-	50 „
„ „	1,600	„	„		3,000	„	-	-	-	100 „
„ „	3,000	„	„		5,000	„	-	-	-	150 „
„ „	5,000	„	„		10,000	„	-	-	-	250 „
„ „	10,000	„	„		15,000	„	-	-	-	350 „
„ „	15,000	„	„		25,000	„	-	-	-	500 „
„ „	25,000	„	„		50,000	„	-	-	-	750 „
„ „	50,000	„	„		100,000	„	-	-	-	1,000 „
„ „	100,000	„	-	-	-	-	-	-	-	2,000 „

For the admission of each exhibit, and for the attendance of each witness, a written application was to be preferred, on stamp paper of the following value :—

In the Court of the Registrar - - - - - -	8 anas.
„ Zillah and City Courts - - - - - -	1 rupee.
„ Provincial and Sudder Dewanny Adawlut - - -	2 „

On every answer, replication, and rejoinder, on every supplimental pleading, every deed of compromise, and every petition, a stamp was fixed at the following rate :—

In the Court of the Registrar - - - - - -	8 anas.
„ Zillah and City Courts - - - - - -	1 rupee.
„ Provincial and Sudder Dewanny Adawlut Courts - -	4 „

The stamp on petitions to the different authorities in the Judicial department, and powers of attorney, was fixed at—

Zillah or City Judge - - - - - - - -	8 anas.
Provincial Court - - - - - - - -	1 rupee.
Sudder Dewanny Adawlut - - - - - - -	2 „

Copies of judicial papers to be made on stamp paper of the following value :—

Decrees of Registrars and Zillah Judges - - - -	1 rupee.
„ Provincial Courts - - - - - -	2 „
„ Sudder Dewanny Adawlut - - - -	4 „
Proceedings of Sudder Dewanny Adawlut for transmission to the King in Council - - - - - - -	2 „
Authenticated copies of revenue and judicial proceedings, of accounts or other documents for judicial reference, or for the use of individuals, on paper of the value of - - -	8 anas.

All charges preferred to officers in the criminal department, for certain specified offences, were to be written on stamp paper, as follows :—

If to the Magistrate - - - - - - - -	8 anas.
„ Court of Circuit - - - - - - -	1 rupee.
„ Nizamut Adawlut - - - - - - -	2 „

Every sheet of stamped paper was to be indorsed with the signature of a public officer of Government.

Regulation III.—1817.

Diminishing the Rate of Stamps and Fees on Petty Suits.

Reg. III. 1817.

This Regulation was enacted for the purpose of removing certain inconsistencies in regard to suits not exceeding 64 rupees. The rules before enacted having had reference only to the court in which the suit might be instituted, and not to the amount sued for, the present Regulation declared, that suits under 64 rupees, if prosecuted in the zillah or city courts, should be exempted from the stamp fees on the plaint, and for exhibits and summonses, in like manner as they would be exempt if prosecuted before the native commissioners, and that appeals from decisions of sudder ameens, in cases above 64 rupees, which might be referred to the registrars, should be liable to the stamp duties, payable in the court of the registrar under Regulation I. of 1814.

Appendix, No. 6.

Regulation XVI.—1824.

Extended Application of Stamps to Securities, &c.

This Regulation greatly extended the provisions of the former Regulations, and prescribed new stamp duties on a great variety of securities, engagements and discharges specified in a copious Schedule annexed to the Regulation, and incapable of being abstracted. Special rules were established for the sale and distribution of stamps, and a heavy penalty was denounced for their forgery, or for abuses by the vendors, or users of stamped paper. Some of the principal classes of stamps ranged as follows :— Reg. XVI. 1824. (Rescinded by Reg. X 1829.)

For bills of exchange	from 1 ana to	20 rupees.	
For bonds	„ 2 „	150	„
For conveyances	„ 8 „	100	„
For leases	„ 8 „	80	„

Regulation XII.—1826.

Stamp Duties within the Town of Calcutta.

By this Regulation, enacted in conformity with the provisions of the 53d Geo. III. c. 155. s. 98 & 99, and reciting in the preamble the sanction of the Court of Directors, and the approbation of the Board of Commissioners for affairs of India, a stamp-duty was imposed to be levied within the limits of the town of Calcutta, on instruments of conveyance, contract, obligation and security for money on deeds in general. Reg. XII. 1826.

Regulation X.—1829.

Consolidation of previous Rules.

The two Regulations, I. of 1814, and XVI. of 1824, were consolidated into one by Regulation X. of 1829, to which two Schedules were annexed, the first exhibiting all the classes of securities and discharges, contracts, engagements, &c. on which liable to the stamp duty, with all exemptions; and the second showing the rate of stamp duties on all original plaints and petitions of appeal substituted for the former institution-fee, on all other pleadings, copies of judicial papers, proceedings, &c. of a judicial nature. The stamps in some cases were raised by this Regulation. The Schedules are very detailed, specifying also all exemptions, and they occupy thirty-two pages of folio paper. Reg. X. 1829.

Schedule (A.)

Bonds, promissory notes for above a year, agreements, deeds of mortgage, settlement, gift or dower, to be written, *ad valorem*, from 25 rupees to 2,00,000, on stamps from 2 anas to 150 rupees, and an additional 100 rupees for every sum of one lac above the two lacs above mentioned.

Bills of exchange and drafts from 1 ana to 25 rupees.

Conveyances *ad valorem* on stamps from 8 anas to 150 rupees, and for every lac above two lacs an additional 100 rupees.

Leases, from 4 anas to 80 rupees.

Receipts and discharges, from 2 anas to 4 rupees.

Deeds of partition, from 8 anas to 8 rupees.

Many minor stamps for a great variety of documents, from 2 anas to 8 rupees.

Schedule (B.)

Contains a minute specification of every law paper requiring a stamp, or exempt from stamp duty. The rates do not vary in any important degree from those declared in Regulation XVI. of 1824, nor is the application of them materially extended.

Appendix, No. 6.

Regulations for the Administration of Justice.

PART THE SECOND.

CIVIL JUDICATURE—SPECIAL JUDICIAL REGULATIONS, having Operation in particular PROVINCES and DISTRICTS.

(A.)—SPECIAL JUDICIAL REGULATIONS, Civil and Criminal, for *Benares*—and certain Districts in the LOWER PROVINCES.

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(A.)

SPECIAL JUDICIAL REGULATIONS for *Benares* and other Districts in the LOWER PROVINCES.

REGULATION VII.—1795.

Introduction of the Judicial System into the Province of Benares.

Reg. VII. 1795.

IT was stated in the preamble to this Regulation, that the Governor-general in Council being solicitous to extend to the inhabitants of the province of Benares, and to persons resorting to it for religious purposes, the securities in the enjoyment of their religious privileges and immunities, which were possessed by the inhabitants of Bengal, Behar and Orissa, and to ensure to them equal protection with regard to their persons and property, he had determined, on similar grounds to those stated in the preamble to Regulation III. of 1793, to abolish the courts of judicature in the province of Benares, superintended by native judges (which were originally established with a view to the introduction of a more perfect system of administering the laws), and in lieu of them to erect courts for the trial of civil suits in the first instance, constituted upon the same principles, and vested with the same powers as the zillah and city courts in the Lower provinces.

Benares.
Mirzapore.
Ghazepore.
Juanpore.

The Regulation accordingly proceeded to establish one city and three zillah courts, similar in constitution and jurisdiction to those in the provinces of Bengal, Behar and Orissa.

Reg. VIII. 1795.

By Regulation VIII. 1795, the rules of practice prescribed by Regulation IV. 1793, were extended to the zillah courts of this province, with a reservation in regard to the Rajah of Benares, and the principal mahajins of the city, commonly denominated Nowputty, and the bâboos (being persons of the rajah's blood or family). These persons were exempted, in the first instance, from the necessity of giving security for their appearance when sued in the civil court; but if, after receiving notice of a suit filed against them, they should fail to appear in court, they were to forfeit the privilege reserved to them, and to be dealt with in all respects as other unprivileged defendants.

Reg. IX. 1795.

By Regulation IX. 1795, a provincial court of appeal was established for the division of Benares under rules similar to those prescribed in Regulation V. 1793.

And

Appendix, No. 6

And by Regulation X. 1795, the powers of the Sudder Dewanny Adawlut were extended over the province of Benares.

In Regulation XV. 1795, which extended to Benares the rules for referring suits to arbitration, there is a special provision, founded on one of the articles of agreement between the British Government and the rajah, dated 27th October 1794, that complaints preferred to the civil courts, touching matters of revenue within the jaghire and altumgah belonging to the rajah, should not be taken cognizance of by the court, but be referred to the rajah or his dewan. If the complainants were not satisfied with the decision so obtained, they were to have recourse to the collector, who would bring the case to a just and equitable termination. Reg. X. 1795. Reg. XV. 1795. Reg. XXII. 1795.

Regulation XXII. 1795.—The preamble to this Regulation stated that previously to the accession of Benares to the East India Company, the administration of justice in the several districts of that province had been committed, subject to the control of the zemindar, to the amils or native collectors of the revenue, who, in the exercise of this trust, were guided chiefly by unwritten customs: that in the city of Benares certain judicial powers in civil suits were lodged in the superintendent of an office denominated the *amanat dufter*, and the police was intrusted to a cutwal: that it had been deemed necessary that all rules which had been passed from the year 1781 to the date of the abolition of the residency, regarding the administration of justice or the police, should be published for the security of the rights of those individuals whose property might be held under or in any respect effected by them, and that it should be declared what part of those rules were still in force, and that provision should be made for transferring the suits pending in the abolished courts to those whic had been established in lieu of them.

The Regulation proceeded to record the establishment of a court of justice for the city of Benares in 1781, and courts at Juanpore, Mirzapore and Ghazepore in 1788, in which year, also, an appeal was authorized, in all civil cases, from the decrees of the mofussil court to the resident at Benares. In those courts the Mahomedan and Hindoo laws respectively were to be administered to parties in civil cases, and the Mahomedan law in criminal cases. The jurisdiction of those courts was, in the first instance, limited to the cities and towns within which they were respectively established, and consequently the inhabitants of the interior parts of the province were still left without any adequate protection or means of procuring redress; for the only other court established in 1786, and called the "Moolky" or country "Adawlut," exercised but limited powers, deciding only causes referred to them by the resident. In 1787, the Moolky Adawlut had been divided into two jurisdictions, civil and criminal, and a separate judge had been nominated to each. At the latter end of that year the civil country court was vested with authority to try all civil suits arising within the province, with the exception of the city and towns in which separate courts had been established. The country criminal court was vested with a co-extensive jurisdiction, and both the courts were placed under the superintendence of the resident, appeals being declared to lie to him from the former, and the futwas or sentences of the latter being rendered subject to his revision. The Regulation then proceeded to record the rules passed for the guidance of the civil court in January 1789, both as to their practice generally, and as to the principles by which they were to be guided in trying suits for the recovery of village zemindary rights resumed by the preceding native government. The Regulation further recorded the rules before issued regarding the opium contract, and the police regulations anterior to those established by the new system. In conclusion, the Regulation directed that the records, civil and criminal, of the city, town and country courts, should be delivered over to the British judges of the newly erected courts, according to their local jurisdiction. The records in the possession of the resident, as judge of the court of appeal and revision, were to be transferred to the provincial courts, and the newly constituted courts were to proceed with all such cases as had not been determined.

Regulation VII.—1828.

Power of the Rajah in Revenue Suits limited.

It appearing that the power granted to the Rajah by Regulation XV. 1795, had been productive of inconvenience from the absence of specific rules for his guidance in the exercise of the privileges thus conferred upon him; and the system having in other respects failed to accomplish the objects intended by it, considerable modifications of that authority were enacted by Regulation VII. 1828, for which see Abstract under the head of "Benares Revenue." It was further enacted, by the same Regulation, that the rajah should appoint a native commissioner in each pergunnah, to be approved by the superintendent, who should be empowered to try civil suits against the inhabitants within their respective jurisdictions, relative to land, its rent, revenue, or produce, of which the cause of action should have arisen within twelve years before the institution of the suit. The commissioners to be guided by the rules of Regulation XXIII. 1814. Their proceedings were to be subject to the supervision of the superintendent, to whom appeals might be preferred within six months from the date of the decision appealed against. It was declared competent to the Governor-general in Council, on being referred to by either party, to supersede the orders passed on such appeals by the superintendent. Reg. VII. 1828

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Regulations for the Administration of Justice.

Regulation XVI.—1795.

Administration of Criminal Justice in Benares.

Reg. XVI. 1795.

The preamble to this Regulation recited, that in the year 1781, a court of justice vested with criminal jurisdiction had been established for the city of Benares; that in the year 1788, courts with similar powers had been erected in the towns of Ghazepore, Juanpore and Mirzapore; that there was also a general criminal court for the province called Moolky Foujdarry Adawlut; and that the British resident at Benares had been vested with authority to superintend, revise and sanction the proceedings of all those courts; the preamble proceeded to state, that it had been determined to appoint British magistrates, and to introduce generally into the province of Benares the system of criminal judicature established in the Lower provinces. The present Regulation accordingly declared, that the judges of the zillah and city courts in the province which had been constituted by Regulation VII. 1795, should be magistrates; that the provincial court constituted by Regulation IX. 1795 should have the powers of a court of circuit for the division, and that the jurisdiction of the Sudder and Nizamut Adawlut should extend over the province of Benares.

It was declared by this Regulation, that no Brahmin should be punished with death, but if convicted of an offence for which according to law he would be subject to capital punishment, he should be sentenced by the Nizamut Adawlut to transportation for life.

Regulation XVII.—1795.

Benares Police.

Reg. XVII. 1795.

The preamble to this Regulation adverted to the engagements into which the landholders and farmers of this province had entered with the Government, to preserve the peace and apprehend offenders within their respective estates or farms, and to recover or make good all property stolen within their several boundaries; and to similar engagements executed by each tehseeldar to the Government, for the entire pergunnah or other division within which he was intrusted with the charge of the police, and the collection of the revenue, such tehseeldars however being at liberty to have recourse, for their own indemnification, to the landholder or farmer within whose limits a loss by theft or robbery might occur. It was stated that this rule had become so far modified in practice, that it was an established principle throughout the province, that when night robberies occurred in the open roads or woods, the tehseeldars, landholders or farmers were not held responsible unless they had such knowledge of the arrival of the persons robbed as would have enabled them to provide for their security and protection; but that for thefts or robberies committed in inhabited places, they were held responsible under any circumstances, if the magistrate was of opinion that the robbery had been committed with their connivance or was ascribable to their want of due care and vigilance. The Regulation proceeded to declare the several powers of the tehseeldars and landholders in regard to their police jurisdiction, and the duties of the various classes of village watchmen which were to be discharged under the authority of the tehseeldar; the magistrates were to furnish the tehseeldars with warrants of appointment of police officers, and translations of the police Regulation. Special rules were also enacted for the establishment of an efficient town police for the city of Benares, and the three principal towns of the zillah to be severally superintended by a cutwal.

Reg. XXII. 1795.

Regulation XXII. 1795, recorded the successive measures adopted to provide for the administration of criminal and civil justice, from the year 1781, until the introduction of the new judicial system. (*See* note of this Regulation under the head "Civil Justice, Benares.")

Special Rules for *Rajmahal* and *Boglepore*.

Regulation I.—1796.

Administration of Criminal Justice in Rajmahal and Boglepore.

Reg. I. 1796.

See Reg. I. 1797.

(Rescinded by Reg. I. 1827.)

This is a special Regulation to provide for the administration of criminal justice to the inhabitants of certain hills to the south and west of Rajmahal, and other parts of the zillah of Boghlepore; they are described as an uncivilized race, differing in manners, customs and religion from the surrounding neighbourhood, never submissive to the native governments, living by plunder, and desolating the neighbouring districts by their incursions; they were reduced under the authority of the British administration by a former collector, Mr. Cleveland, who granted certain pecuniary allowances to their chiefs on the condition of their preserving the peace of the country. In the year 1782, the privilege was granted to them of having criminal justice administered to them by assembly of their chiefs, under the superintendence of the magistrate, subject to the confirmation of the Governor-general in Council in certain cases. The purpose of the present Regulation was to transfer the duty of revising sentences from the Governor-general in Council to the Nizamut Adawlut, and to provide special rules for the trial of accused persons. The magistrate was to receive complaints as in other zillahs, but in cases where the prisoner would have been committed for trial before the court of circuit, the prisoner was to be sent for trial before an assembly of hill chiefs, whom the magistrate was to convene for that purpose: magistrates were to furnish the assembly with lists of the witnesses summoned, and all the necessary information. The magistrate

magistrate was to convene an assembly twice a year, to sit at such places as should be most convenient; the assemblies were to be held in the presence of the magistrate, who was at liberty to suggest to the court any questions which appeared to him necessary, to illicit such information as would enable the Nizamut Adawlut to decide on the case submitted to them; the magistrate was to cause regularity to be observed in the meetings, but was in no way to interfere with the deliberations or sentence of the court. The magistrate might himself confirm sentences of confinement not exceeding fourteen years; sentences for higher punishment were always to be referred to the Nizamut Adawlut; sentences of mutilation were to be commuted to imprisonment. The custom stated to have obtained among the hill people, of leaving to the next of kin to the deceased an option of pardoning the murderer, or of demanding retaliation or pecuniary compensation, was not to be admitted; but whenever the accused was declared guilty of murder he was to be sentenced to death, unless there were reasons for pardon or commutation of the sentence, apparent to the Nizamut Adawlut. Appendix, No. 6.

This Regulation rescinded the special rules enacted by Regulation I. 1796, and declared the hill people of Boglepore amenable to the general Regulations; with this modification, however, that in criminal trials it should not be necessary to take the opinion of the Mahomedan law officer, but in lieu thereof, a committee of not less than three hill chiefs, called "Manjees," were to sit as assessors and to declare their opinion, according to the laws and customs of the hills, which was to be subject to the confirmation of the judge of circuit conducting the trial. In cases remitted to the Nizamut Adawlut, that court was not to refer to their law officer for his futwa, but was to pass such sentence as should appear equitable to not less than two judges of the court. The magistrate was to keep a register of manjees, and when a prisoner of the hill tribes was committed for trial, the magistrate was to summon not less than twelve manjees to attend the session, three of whom, to be chosen by ballot or otherwise, as the judge of circuit might deem proper, were to sit on the trial. The three first selected might be challenged peremptorily, and any others for reasons assigned by the prisoner. Reg. I. 1827.

Regulation XVIII.—1805.

Jungle Mehals.

By this Regulation the districts called "Jungle Mehals," situated in the zillahs of Beerbhoom Burdwan and Midnapore, were formed into the jurisdiction of a distinct officer, denominated "Magistrate of the Jungle Mehals." Special rules for the police of the Jungle Mehals were enacted, for which see "Police." Reg. XVIII. 1805.

Regulation VII.—1806.

Establishment of a separate Civil Court for the Twenty-four Pergunnahs.

By this Regulation, a court of civil judicature was established in the vicinity of Calcutta, denominated the court of the 24 Pergunnahs. The court was vested with the same powers as other zillah courts, but the judge was not to exercise the authority of magistrate. The duties of that office being dischargeable by the justices of the peace of the town of Calcutta, or such other persons as the Governor-general in Council might be pleased to appoint. By Regulation XVI. 1812, the judge of the 24 pergunnahs was required to give effect to the judgments of the court of requests at Calcutta, in the cases of defendants resorting to that jurisdiction to evade the process of the court of requests. Reg. VII. 1806. Reg. XVI. 1812.

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Regulations for the Administration of Justice.

PART II.—Civil Judicature—SPECIAL JUDICIAL REGULATIONS—*continued.*

(B.)—SPECIAL JUDICIAL REGULATIONS, CIVIL and CRIMINAL, for the ceded and conquered Provinces, *Bundlecund* and *Kumaoon.*

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(B.)

SPECIAL JUDICIAL REGULATIONS for the ceded and conquered Provinces, *Bundlecund* and *Kumaoon.*

REGULATION I.—1803.

Introduction of the Code of Regulations into the ceded Provinces of Oude.

Reg. I. 1803. BY this Regulation the system of judicial administration provided by the Code of Regulations was introduced into the territories ceded to the East India Company by the Nawaub Vizier on the 10th November 1801. These provinces are described in the Regulations as the provinces "ceded by the Nawaub Vizier."

By Reg. II. 1803. They were divided into seven* zillahs, in each of which courts were established on the same model, and with the like jurisdiction as the zillah courts, established in the Lower provinces in 1793; and the judges were invested with the authority of magistrates by Regulation VI. 1803.

Reg. VI. 1803.

By Regs. IV. VII. 1803. A superior court was established, under the title of "the Provincial Court," in its civil jurisdiction, and "Court of Circuit" in its criminal jurisdiction, for the division of the ceded† provinces.

By Regs. V. VIII. 1803. The jurisdiction of the Sudder Dewanny and Nizamut Adawlut was extended over the courts of civil and criminal jurisdiction, under the same rules as those which established the authority of that tribunal in the Lower provinces. A succession of Regulations, enacted in the same year, introduced, as far as appeared necessary, the various branches of judicial administration, civil and criminal, into the Oude provinces.

By

* Moradabad, Bareilly, Etawa, Furuckabad, Cawnpore, Allahabad, Goruckpore.

Reg. IX. of 1804. † This designation was altered by Regulation IX. 1804, to the division of Bareilly.

By Regulation LI. 1803, the court of circuit for the ceded provinces was empowered to take cognizance of all depending criminal cases, the trial of which had been commenced but not completed by the native criminal court, which had been temporarily established before the introduction of the judicial system. Appendix, No. 6. Reg. LI. 1803.

Judicial Administration in the Conquered Provinces in the *Doab*.

Regulation IX.—1804.

Introduction of the Judicial System into the Conquered Provinces in the Doab.

Certain territories forming part of the Doab, or country situated between the Ganges and the Jumna, and on the right bank of the Jumna, had been ceded to the East India Company in full sovereignty, by Dowlut Rao Scindiah; and certain other territories, forming part of the province of Bundlecund, on the right bank of the Jumna, had likewise been so ceded by the peishwa. The system of judicial administration was extended to these territories by the present Regulation. The first-mentioned territories were divided into five zillahs, which were included within the jurisdiction of the court of circuit for the division of Bareilly. The territory of Bundlecund was formed into one zillah, and placed under the jurisdiction of the court of circuit for the division of Benares. The courts in the circuit of Bareilly were not to take cognizance of crimes committed in those districts previously to the 30th December 1803, the date of the treaty with Scindiah; nor those in the circuit of Benares of crimes placed under their supervision anterior to the 16th December 1803, the date of the treaty of Bassein. Reg. IX. 1804. Zillahs of Paniput, Saharunpore North, ——— South, Allyghur,—Agra. Bundlecund.

By Regulation VIII. 1805, the several laws and regulations for the internal government of the provinces ceded by the nawaub vizier were extended to the territories in the Doab, and in Bundlecund, with certain modifications. For the number and jurisdictions of the courts established, see the preceding Regulations; and Reg. VIII. 1805.

By Regulation XIV. 1806, the number of courts in these provinces was reduced to four, the northern and southern divisions of Saharunpore being united into one zillah. Reg. XIV. 1806.

Regulation IV.—1817.

Administration of Criminal Justice in Deyra Doon.

A tract of country called Deyra Doon having been ceded to the East India Company in full sovereignty by the rajah of Nepaul, it was by this Regulation annexed to the district of Saharunpore,* and the date of its annexation was declared to be 15th May 1803. In sentencing to punishments for crimes committed between the 15th May 1815 and the promulgation of the present Regulation, which bears date the 28th February 1817, no heavier punishments than would have been prescribed by the existing laws and usages of the district were to be adjudged; but in all such cases, if the punishments prescribed by the British Regulations would have been milder than those by the laws of the district, the offenders were to have the benefit of those provisions. Reg. IV. 1817.

Power was reserved to the Government to fix at their pleasure the periods for the formation of the Revenue settlements of the district.

Regulation X.—1817.

Administration of Criminal Justice in Kumaoon.

By this Regulation provision was made for the administration of criminal justice in the province of Kumaoon, and in several small tracts of country which had been ceded by the rajah of Nepaul (exclusive of Deyra Doon, for which provision had been made by Regulation IV. 1817). Local circumstances having rendered it inexpedient to annex the above-mentioned districts to the Ceded and Conquered Provinces, the judicial administration had been conducted by British officers under instructions from the Governor-general in Council; but under that system embarrassment had been experienced from the want of a suitable tribunal for the trial of prisoners charged with heinous offences. It was enacted by this Regulation, that the trial of such cases should be referred to a commissioner, being an experienced judicial officer, whom the Governor-general in Council would appoint, who would be vested in those respects with the same powers as the judges of circuit, and was to be guided in the discharge of his duties by the spirit and principles of the Regulations in force in the Ceded and Conquered Provinces. It was not, however, to be necessary to have the futwa of a Mahomedan law officer, and in cases of reference to the Sudder Nizamut Adawlut, that court were to pass sentence without requiring a futwa from their law officer. The date of the annexation of Reg. X. 1817.

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* By Regulation XXI. 1825, it was transferred to the jurisdiction of the commissioner for the province of Kumaoon. By Regulation V. 1829, this provision was rescinded, and it was declared open to the Governor-general in Council to provide, in such manner as he should see fit, for the administration of criminal justice in Deyra Doon.

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of this territory, for judicial purposes, was declared to be the 15th May 1815; the same provision was made as in Regulation IV. 1817, in regard to the operation of the penal laws, between the date of the cession and the promulgation of the present Regulation.

Regulation II.—1818.

Annexation of Territory to Bundlecund.

Reg. II. 1818.

By this Regulation, certain districts ceded to the East India Company by Nana Govind Rao having been annexed to the zillah of Bundlecund, and the laws and regulations for the administration of Bundlecund were declared to be extended to those districts; the date of their annexation was declared to be the 1st November 1817. But it was notified, that the authority of the civil courts of judicature was not to commence until they should be officially apprized by the Government that the first settlement of the revenue of the said district and villages had been completed and duly sanctioned. In sentencing to punishments for crimes committed between the 1st of November 1817 and the promulgation of the present Regulation, which bears date the 31st March 1818, no heavier punishments than would have been prescribed by the existing laws and usages of the district were to be adjudged; but in all cases in which the punishments prescribed by the British Regulations would have been milder than those by the laws of the district, the offenders were to have the benefit of those provisions.

Regulation IV.—1818.

Re-establishment of Zillah North Saharunpore.

Reg. IV. 1818.

The court of Northern Saharunpore was again re-established by Regulation IV. 1818, under the title of the Zillah of Saharunpore, and the Southern division was denominated the Zillah Mehrut.

Regulation X.—1822.

Administration of Criminal Justice in the Garrow Hills.

Reg. X. 1822.

By this Regulation special provision was made for the administration of justice to certain savage tribes occupying the Garrow Hills, on the north-east frontier of Rungpoor. The preamble stated, that little had been done to reclaim or civilize these people; and that the reciprocal animosity subsisting between them and the inhabitants of the cultivated country prevented any extensive intercourse of a pacific nature, while their mutual injuries had produced feuds leading frequently to disturbance and bloodshed. The zemindars within the British frontier were stated to have been generally the aggressors, and the Garrows had seized frequent occasions of private revenge and retaliation. Wherever those zemindars had been successful in establishing their authority, and were deriving incomes from cesses paid by the mountaineers, the tracts so occupied by them had been considered as parts of such zemindaries, and as coming within the operation of the general regulations of the British Government, which were accordingly administered within them. The judicial system, however, had been found inapplicable to their savage and secluded condition, and was calculated to leave them at the mercy of the zemindars, rather than to offer any substantial means of redress. Under such circumstances, it seemed necessary that a special plan for the administration of justice, adapted to their peculiar circumstances and prejudices, should be arranged and concerted with the head men, and that they should be freed from dependence on the zemindars of the British Provinces. With this view, it was resolved to suspend the operation of the Regulations in the Garrow country, and to substitute the system prescribed in the present Regulations. An officer, denominated "Commissioner for the North-east parts of Rungpoor," was invested with the powers of a judge of a court of circuit, as well as with those of magistrate. No reference to a Mahomedan law officer was to be necessary to the conviction or punishment of an offender; but whenever the commissioner should deem the punishment which he was authorized to inflict inadequate to the crime, he was to refer the trial to the Nizamut Adawlut, accompanying it with a statement of his opinion as to the guilt or innocence of the prisoner, and with an explanation of any special custom of the parties or witnesses that might be necessary to the proper understanding of the proceedings.

Regulation VI.—1831.

Establishment of a Sudder Dewanny and Nizamut Adawlut for the Western Provinces.

Reg. VI. 1831.

It was stated in the preamble to this Regulation, that the remoteness of the districts comprised in the Western Provinces from the Presidency, and the difference of their climate from that of Bengal, operated to deter individuals from availing themselves of the benefits obtainable from the higher tribunal, and caused considerable difficulties in procuring representatives to attend on their behalf before the Sudder Dewanny Adawlut. To remedy these evils, and also to provide for the more expeditious passing of the final decision on important criminal cases tried in the Upper Provinces, and for the more efficient control of the several judicial and magisterial authorities in those districts, it had been resolved to appoint a separate court of the Sudder Dewanny and Nizamut Adawlut for the Western Provinces, including

including the province of Kumaoon, and to place under the authority of that tribunal the trial of persons charged with offences of a heinous nature committed within the Saugur and Nerbudda territories. The Regulation accordingly provided for the constitution of a Sudder Dewanny and Nizamut Adawlut for the Western Provinces, to be ordinarily stationed at Allahabad, but removable to any other place that the Governor-general might appoint. The court was to consist of one or more judges, and was to have two muftis, a registrar, and such other officers as might be deemed necessary; it was to possess the same powers within its local jurisdiction as were exercised by the Sudder Dewanny and Nizamut Adawlut at Calcutta.

Appendix, No. 6.

See Reg. II. of 1818.

In cases requiring under the Regulations the concurrent voices of two judges, when only one judge might be present, in the Western Sudder court, or when two judges being present should differ in opinion, the question was to be referred for the decision of ten of the judges of the Sudder court at the Presidency.

Regulation XI.—1831.

Police of the Ceded and Conquered Provinces.

Reg. XI. 1831.

It was declared in the preamble to this Regulation, that as provision had been made for occasionally vesting collectors with the power of magistrates, it was expedient, with a view to improve the efficiency of the police in districts of the Ceded and Conquered Provinces, where tehseeldary* establishments were maintained, that the Governor-general in Council should be empowered by an order in council to vest the tehseeldars with the powers exercised by darogahs of police; and it was also expedient to modify the rules regarding the removal of police officers. The Regulation accordingly declared the power of the Governor-general, by an order in council, to vest the powers of darogah in tehseeldars, and to fix their local jurisdictions, within which all resident officers of police, including the tannah and village establishments, were to be subject to the authority of the teehseeldar, in his capacity of chief police tannahdar.

* Similar to those in Benares. *See* Reg. XVII. 1795.

Wherever the foregoing arrangement should have effect, the persons before filling the office of darogah were to be designated naib, or deputy. Darogahs, and their powers and duties under the General Police Regulations, (XX. 1817), were to be those of police officers at outposts; the tehseeldars exercising the powers of darogahs under this Regulation were authorized to employ, when necessary, in aid of their regular police establishments, any of the revenue officers on fixed tannahdarry establishments, who were in such case to discharge their police duties in conformity with the Regulations; but the fixed police establishments were not to be employed in the revenue duties, except in cases provided for in the Regulations. When the arrangement provided for by this Regulation should be carried into effect, it was to be notified by the publication and proclamation of the several Police and Revenue jurisdictions, to be suspended in a conspicuous place in the cutcherry of the collector and magistrate. In such districts all practicable reductions were to be made in the police establishments, and the office of naib darogah, when vacant, was not to be filled up; and the appointment and removal of police officers were declared to rest with the magistrate, subject to the orders of the commissioner of circuit, and the final decision of the Governor-general in Council in any special case.

Appendix, No. 6.

Regulations for the Administration of Justice.

PART II.—Civil Judicature—SPECIAL JUDICIAL REGULATIONS—*continued.*

(C.)—SPECIAL JUDICIAL REGULATIONS, Civil and Criminal, for *Cuttack.*

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(C.)

SPECIAL JUDICIAL REGULATIONS for *Cuttack.*

REGULATION IV.—1804.

Date of Cession;—Provision for the Administration of Criminal Justice.

Reg. IV. 1804.

THE province of Cuttack, including Balasore and other dependencies, was ceded to the East India Company in full sovereignty, by the Rajah of Berar, in January 1804; the fort and town of Cuttack having surrendered to the British arms on the 14th October 1803.

By this Regulation, provision was made for the administration of criminal justice in that province, according to the Mahomedan law, with the modifications introduced by the British Government; the province was divided into two zillahs, and included in the jurisdiction of the court of circuit for the division of Calcutta.

North Cuttack, South Cuttack.

REGULATION XIII.—1805.

System of Police for Cuttack.

Reg. XIII. 1805.

THIS Regulation was passed to introduce a regular and efficient system of police into the province of Cuttack. The preamble stated, that, under the Mahomedan government, it had been the practice to vest the immediate maintenance of the peace in certain sirdar pykes, or head police officers, also called kandytes, aided by inferior officers under their orders, for whose support lands were assigned under the authority of the said Government. The general control of the sirdars and other officers was vested in the holders of land within their respective estates. This system, it was stated, had been found well calculated for the prevention of crimes, and the maintenance of the general tranquillity of the country.

Instead of two, as provided by Reg. IV. 1804.

By the present Regulation, the districts of Cuttack were formed into one* zillah, to be called the zillah of Cuttack, with the exception of certain pergunnahs, which were included in the zillah Midnapore; the principal zemindars were consituted darogahs of police within the limits of their respective possessions; and the inferior zemindars, being proprietors of petty estates, were to be considered subordinate officers of police, under the immediate authority of the darogahs. In cases where any zemindars had been divested of the charge of police for misconduct, or any other reason, either by the Mahratta Government or by the commissioners for the settlement of Cuttack, one, two or more kandytes were to be vested with the maintenance of the peace within those districts, subject to the control of the darogahs, who should be appointed over them by the Government, and who would receive adequate salaries for the performance of their duties. The sirdar and other pykes were to retain their lands, but were liable to be dispossessed for disobedience of the orders of the darogahs, neglect of duty, or other misconduct, proved to the satisfaction of the Nizamut Adawlut. All holders of land were declared bound to afford every assistance for the preservation of the peace within their respective limits, and were to be amenable to punishment for neglect or connivance of crime.

Certain hill zemindars, whose names were specified, were exempted from the operation of this Regulation.

REGULATION XIV.—1805.

Provision for the Administration of Civil Justice.

Reg. XIV. 1805.

THE laws and regulations for the trial of civil suits in the Lower Provinces were extended to Cuttack; the date of limitation for the institution of suits was fixed at twelve years antecedent to the 14th October 1803; the power of the courts to admit was restricted to such suits of a private nature as would have been taken cognizance of by the courts of justice,

justice, under the administration of the rajah, and they were forbidden to entertain complaints regarding acts of the rajah's government. In suits originating before the 14th October 1803, the courts were to decree interest at the rate of 30 per cent. per annum, on sums not exceeding 100 rupees, and 24 per cent. on sums exceeding that amount. On suits that had originated subsequently to that period, 12 per cent.

Certain tributary estates were exempted from the operation of this Regulation.

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(1.) Abstract of Regulations for the Administration of Civil Justice.

Regulation XI.—1816.

Civil Suits regarding Inheritance arising in the Tributary Mehals of Cuttack.

By this Regulation, provision was made for the trial of questions of inheritance and succession arising in the tributary estates, which had been exempted from the operation of the general system of administration, by Regulation XIV. 1805. It stated, that the nature of the tenures by which those estates were held, the character of the inhabitants, and other local circumstances, rendered it expedient that the estates should not be subject to partition, but should descend, entire and undivided, to the persons who had the strongest claim, according to local and family usage. The adjudication of all such claims was vested in an officer styled the "superintendent of the tributary Mehals," who was to be guided in his decisions by the established laws and usages of the respective tributary estates, which were in no case to be considered liable to division, according to the common rules of Hindoo law. The superintendent's court was to be held in the zillah Adawlut, and was to be attended by the established pleaders of this court; the proceedings were to be exempted from the operation of the stamp regulations. An appeal was to lie from decisions of the superintendent to the Sudder Dewanny Adawlut. The principles of the rules for the conduct of civil suits generally, were to be held applicable to suits under this Regulation. Decrees requiring a transfer of property, or a change in possession, were not to be carried into execution without a previous communication through the Sudder Dewanny Adawlut to the Government, in order that sufficient time might be afforded for the adoption of any precautionary measures to prevent hazard to the public tranquillity. The judgments of the Sudder Adawlut were declared final, except in cases in which the amount or value adjudged, exclusive of costs of suit, should exceed 5,000 *l.*, or sicca rupees 43,103; in all which cases a further appeal would be open to His Majesty in Council, under the provisions of Regulation XVI. 1797.

Reg. XI. 1816.

Regulation XXII.—1817.

Special Powers vested in the Judge and Magistrate of Cuttack.

By this Regulation, power was given to the judge and magistrate of Cuttack, in consideration of the then disturbed state of the district, to remove and appoint native ministerial officers of his establishment, without reference to the provincial court.

Reg. XXII. 1817.

Regulation V.—1818.

Appointment of a Commissioner in Cuttack.

Considerations connected with the state of Cuttack, and with the disturbances which had prevailed in various parts of it, rendered it expedient that the superintendence of the civil affairs of the district, judicial, revenue and commercial, should be vested temporarily in a commissioner, who should exercise, within the local limits of Cuttack, the functions which, under the existing Regulations, appertained to the provincial courts, and to the Boards of Revenue and Trade. This Regulation accordingly provided for the exercise of those authorities by the commissioner. The decisions of the commissioner in civil suits, whether regular or summary, were declared final, except in cases which, from their amount, would be appealable to His Majesty in Council. In criminal cases, the reference to the Sudder Nizamut Adawlut was to take place as before. Authority was given to the judge and registrar, to hold their court, for the investigation of summary suits, regarding rent, or dispossession in any part of the district of Cuttack; and it was likewise declared competent to the commissioner to employ the registrars or the assistance of the judge and magistrate, on local duties in the Territorial department, whenever such employment should appear calculated to promote the public service.

Reg. V. 1818.

See Note, p. 663.

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Regulations for the Administration of Justice.

PART THE THIRD.

CIVIL JUDICATURE—MISCELLANEOUS REGULATIONS.

(A.)—RULES relative to EUROPEAN PUBLIC OFFICERS of GOVERNMENT.

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(A.)

RULES relative to EUROPEAN PUBLIC OFFICERS of GOVERNMENT.

REGULATION XXXVIII.—1793.

The Company's European Servants forbidden to lend Money to Natives.

Reg. XXXVIII. 1793.

THE preamble to this Regulation stated first, that at an early period after the establishment of the British Government in India, the servants of the Company employed in the administration of justice and in the collection of revenue, had been prohibited from lending money to landholders, farmers and others concerned in the collection or payment of the revenue; that the object of this prohibition was to guard against the abuse of official power in transactions with individuals, subject to their control and authority.

It was stated that the above rule had been incorporated into the judicial regulations passed on the 5th July 1781, and had continued in force ever since.

The Regulation then declared, that judicial and revenue officers, and all covenanted servants of the Company, were prohibited lending money to proprietors or farmers of land or their under tenants; and all such loans were declared not recoverable in any court of judicature.

REGULATIONS VIII. and X.—1806.

Prosecution and Defence of Suits against European Public Officers of the Government.

Reg. VIII. & X. 1806. (Rescinded by Reg. XVII. 1813, and by Reg. II. 1814.)

THE object of these Regulations is stated at much length in the preamble to the former of the two enactments, which relates to prosecutions against public officers in the executive departments of Government. Its provisions were extended generally to those of the judicial department by the latter enactment. The preamble to Regulation VIII. stated, that it had been intended by former enactments of the Legislature, to make provision for distinguishing between such acts as had been done by public officers, under the immediate orders and responsibility of the Government, concerning which suits instituted were to be considered "public suits," and defended at the public expense, and acts done in breach or opposition to the laws for which the public officers were to be left to defend themselves. Adverting to the statutes of 13 Geo. III. c. 63, sec. 33, and 33, Geo. III. c. 52, sec. 62, it observed, that individuals could not be expected, in all cases, to prosecute charges of the nature there specified, at their own risk and expense, in the supreme court at the Presidency; and when an accusation was preferred to any of the courts of judicature authorized to receive the same, or when public information was given to the local government of corruption, embezzlement or other gross malversation, breach of trust or high misdemeanor by a public officer, justice required that an immediate investigation should be instituted, for the purpose of ascertaining whether such officer deserved any longer to be continued in the employment

of

of the Company; and that in cases which might appear to require it, the provisions of the law should be carried into effect by a public prosecution in the supreme court of judicature; or if the charge should appear to be unfounded, that justice should be done to the character of the accused.

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(1.) Abstract of Regulations for the Administration of Civil Justice.

The Regulation then provided, that information should be given to Government of all suits or complaints preferred to the courts of justice against European public officers of the Government, and declared the various modes of proceeding which would be adopted according to the circumstances of the case; viz. either the appointment of a special commission to try the charge, or prosecution before the supreme court, or the investigation of the charge before the established courts of Adawlut.

Regulation XVII.—1813.

Modification of the Course prescribed by previous Regulations for the Investigation of Charges against European Public Officers.

This Regulation was passed to simplify the rules prescribed in Regulations VIII. and X. 1806, for the conduct of inquiries into charges of corruption or other gross misdemeanor preferred against European public officers, with a view to the more expeditious termination of such investigations. Reg. XVII. 1813.

It provided, that no such accusations or charges should be acted upon unless stated on oath, from the deponent's personal knowledge. It declared it to be the duty of every court of civil judicature, by whom such charges might be received, to examine the informant circumstantially, upon oath, and to transmit his examination to the Sudder Adawlut, who, if they should be of opinion that the charge was frivolous and vexatious, should merely inform the party that they did not see any substantial reason for entering further into the inquiry. If, on the contrary, they should see ground for a more formal investigation, they were to submit a report to the Governor-general in Council, together with a clear statement of the charges, reduced to distinct heads or articles, which they would propose to be made the regular subject of investigation. The Governor in Council would, thereupon, if he saw fit, appoint a special commission to try and report upon the case; and, on the receipt of their report and proceedings, the Governor-general in Council would pass such decision on the case as might appear to him most consonant to the principles of justice, and to the constitutional powers possessed by Government in matters of this description; and, if it appeared necessary, woud give instructions to the law officers of Government, to institute a prosecution against the offender before the supreme court of judicature.*

Regulation II.—1814.

Further Modification of the preceding Rules.

The course of proceeding laid down in Regulation VIII. of 1806, which prescribed to the Government the duty of determining, whether suits against public officers should be prosecuted in the ordinary courts, or how otherwise, having been found to occasion much delay in consequence of the necessary references to be made to public authorities, before the final determination could be made; it was enacted by the present Regulation, that whenever a court should receive a complaint against a public officer, for any act done in the discharge of his official duties, by which the party complaining deemed himself aggrieved, the court should transmit the petition to the Board having the controlling authority over the department to which the officer belonged, who, if they deemed the case to be one in which the party was entitled to redress, would report accordingly; or if they considered the case to be such as the party should be left to prosecute individually, were to inform the court who had made the reference what they should decide on the subject. The controlling Board were further to determine whether the defence of any suit instituted should be carried on behalf of Government, or be left to the individual prosecuted.† Reg. II. 1814.

Regulation XXI.—1814.

Public Officers forbidden to appoint their Creditors to Situations under them.

The preamble to this Regulation declared, that public inconvenience had been experienced from the European officers, of the Government appointing their creditors to situations in their several departments. The Regulation accordingly forbad the practice, and charged the superintending Boards and courts with the duty of satisfying themselves fully, that natives recommended to fill vacancies on the establishment of the European public officers were not creditors, or the relatives and dependents of creditors of such public officers. Reg. XXI. 1814.

Regulation VIII.—1817.

Further Modification of the Rules for Proceedings against European Public Officers.

The preamble declared, that such part of the provisions of Regulation XVII. 1813, as placed the superintendence of the proceedings held by Commissioners appointed under that Regulation in the superior Board or court of the department to which the proceedings related, Reg. VIII. 1817.

* By Regulation VIII. 1825, power was given to the controlling authorities passing a final judgment or order in the case, if the accusation should be found manifestly unfounded and malicious, to punish the accuser by imprisonment, with or without labour and irons, for six months, and to fine, not exceeding 500 rupees, commutable to a further imprisonment of six months.

† By Reg. VIII. of 1816, the office of Remembrancer was established, for which *see* p. 655.

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related, and directed that such superior court or Board should submit the whole of the proceedings to the Governor-general in Council, with their opinion, whether any and what facts charged against the party appeared to have been established, might be productive of serious delay in the final termination of the case. The present Regulation, therefore, enacted, that whenever a special commission might be appointed under the provisions of Regulation XVII. 1813, for the investigation of charges exhibited against a public officer, the Governor-general in Council would determine whether the commission so appointed should be placed under the control of the courts or Boards, or should act immediately under the authority of Government, and under such instructions as they might issue in that behalf.

It was provided, that in any case wherein the commissioners should entertain doubts on the meaning of any provision of a Regulation, they were to submit the point to the Sudder Dewanny Adawlut for their determination. Commissions, which were to act without the supervision of intermediate authority, were in no case to consist of less than two persons, one of whom at least was to be selected from the Judicial department.

Regulation VII.—1823.

The Company's European Public Servants prohibited from borrowing Money from Natives under their Authority.

Reg. VII. 1823.

Former Regulations having only prohibited the civil European officers of the Government from lending money to natives, the present enactment strictly prohibited all civil servants from borrowing money from native officers under their authority, or from zemindars, or from other proprietors, or from ryots, under pain of dismissal from office; and it prohibited all those persons from lending money to civil servants, under pain of forfeiting to Government a sum equal to the amount in which they might so illegally have become creditors. It further enacted, that if any civil servant should be so illegally indebted at the end of one year after the passing of this Regulation, he should make a report of the same to the Government, or failing to do so, should be liable to dismissal from office. Any person who might be thereafter appointed to office being so illegally in debt, who should not report the same to Government, was declared liable to the same penalty. Any native causing himself to be appointed to any office, in opposition to the provisions of Regulation XXI. 1814, was declared liable to forfeit to Government a sum equal to ten times the annual profit of the office to which he might have been so appointed. The penalties were declared recoverable in the provincial court of the district, subject to appeal to the Sudder Dewanny Adawlut.

Regulation VIII.—1825.

European Public Officers of Government forbidden to employ their private Servants in public Duties, or public Servants in private Duties.

Reg. VIII. 1825.

It had been enacted in Regulation II. 1793, that no collector should be permitted to employ his private servants, nor any persons except public and registered officers, in any part of their public duties, nor to confer on their public officers any private trust relating to their personal concerns. By the present Regulation the same rule was enjoined to all officers of Government, under a penalty of dismissal from office. All native servants who at the passing of this Regulation should be disqualified by the foregoing prohibitions, were to be immediately removed from office, and successors appointed; and in all future nominations, every public officer recommending a native was to state explicitly that such native was not disqualified under this Regulation.

PART III.—Civil Judicature—MISCELLANEOUS REGULATIONS—*continued.*

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(B.)

RULES relative to EUROPEANS not in the PUBLIC SERVICE.

REGULATION XXVIII.—1793.

European British Subjects not to reside more than Ten Miles from Calcutta.

THE preamble to this Regulation stated, that although European British subjects residing in the interior could obtain redress against the natives of the country by application to the established courts, the natives could only obtain redress against European British subjects by suing them in the Supreme Court of Judicature at Culcutta; a process attended with so much difficulty and expense that the manufacturers and cultivators of the soil were in fact wholly precluded from obtaining redress if wronged. As the prosperity of the country must depend upon the due protection of the industrious classes of the people, the present Regulation, with a view to remedy the evil above stated, enacted, that European British subjects (with the exception of the King's and the Company's civil and military servants) should not be permitted to reside at a greater distance from Calcutta than ten miles, unless they entered into a bond rendering themselves amenable to the civil court within the jurisdiction of which they should reside, in all civil suits for an amount or value not exceeding 500 rupees. Any European British subject residing within the jurisdiction of any zillah or city court more than ten miles from Calcutta, who should refuse to execute such bond when required, was to be ordered by the judge to quit his jurisdiction within one month from the date of the written order to that effect, which was to be served upon him; and in the event of his not complying with that order, the judge was to send him to Calcutta under charge of his officers. Reg. XXVIII. 1793.

It was declared, that Europeans not British subjects, residing out of the limits of Calcutta, were amenable to the civil courts in the same manner as natives.

REGULATION XXXVIII.—1793.

Forbidding European British Subjects from holding Land in the Provinces, without the special Sanction of Government.

THAT part of the preamble to this Regulation which related to European British subjects not public servants of the Government, stated, that, from a regard to the prejudices of the natives and with a view to promote their case and happiness, as well as to obviate the evils which would necessarily result from allowing persons not amenable in common with the natives to the provincial courts of judicature, to purchase or rent estates without restriction or limitation, or to hold any land whatever, excepting for the erection of dwelling-houses or buildings for manufacturers or other commercial purposes, a rule had been early established, that no European should purchase or hold land out of the limits of Calcutta without the sanction of Government. This rule had been included in the Revenue Regulations passed on the 8th June 1787, and had remained in force ever since. The present Regulation was passed for the purpose of re-enacting those rules in the prescribed form with certain modifications. Reg. XXXVIII. 1793.

Europeans, of whatever nation or description, were prohibited holding land out of Calcutta by purchase or otherwise, without the sanction of the local Government. Europeans possessing, renting or occupying lands without the sanction of the Governor-general in Council, were declared liable to be dispossessed at his discretion. It was declared that such Europeans as were not prohibited from lending money to proprietors of land, &c. on mortgage of an estate or a lease, should nevertheless not be allowed to have possession of the land, or to have any concern in the collections of the rents or revenues thereof.

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The collectors were to depute their officers to measure all such ground as the Governor-general in Council might permit any Europeans to hold. They were likewise charged to report whenever any Europeans might possess themselves of land without such authority.

Annual statements of lands held by Europeans were to be sent by the collectors to the Board of Revenue by the 1st January.

Regulation XXXIII.—1795.

Rules relative to the Rent of Lands, the Cultivation and Manufacture of Indigo by European British Subjects.

Reg. XXXIII. 1795.

Benares.

The preamble to this Regulation began by declaring, that the observance of the rule which prohibited Europeans from holding lands in the interior of the country, without the express permission of Government, appeared particularly necessary in the province of Benares. It stated, that the first engagements entered into by two Europeans to farm certain talooks for facilitating the raising of the plant, were made without the knowledge of the British Government, and as soon as they were discovered, the resident was ordered to dispossess the parties of their farms, but in consideration of the loss to which they would be thereby exposed, and of the benefit which might result to the province from the improvement of the indigo manufacture, they were permitted in 1790 to proceed. This permission led to several other persons establishing themselves between that period and 1794, at which time the attention of Government was attracted to many inconveniences and evils which had arisen in consequence, and it was ordered by the Government that Europeans should not be permitted to acquire landed property, or hold land on lease in Benares, beyond what might be sufficient for the erection of houses or buildings for carrying on their manufactures. Nevertheless, on consideration of a memorial from the planters, the Government consented to rescind that order, and to allow existing leases to continue to the expiration of the decennial settlement. The Regulation then recorded the rules and orders from time to time passed, the ultimate effect of which was to allow Europeans to enter into contracts, either with the persons who had engaged with the Government for the Revenue, or with the putteedars or co-parceners of those persons, or with the khudcasht ryots, (the cultivators with perpetual right of occupancy.) The powers exercised under the former rules by the resident in respect to all such engagements, were declared to be transferred to the judges of the zillah and city courts.

Regulation XX.—1812.

Allowing the Registry of Indigo Contracts.

Reg. XX. 1812.

This Regulation was enacted to improve the forms for the registry* of deeds, and to admit to such registry engagements for the delivery of indigo; also for the establishment of a separate register of obligations for the payment of money.

Regulation VI.—1823.

For the Enforcement of Indigo Contracts.

Reg. VI. 1823.

Bengal.

This Regulation was enacted to afford relief to indigo manufacturers in Bengal, against the frauds to which they were exposed by cultivators, to whom advances of money and seed had been made upon a contract to receive the produce of a defined quantity of land on certain specified terms. No redress had been attainable in such cases except by regular suit, and the necessary delay attending that process had not unfrequently led to acts of violence and serious affrays. In the decision of such suits also much diversity of opinion had been found to exist in different judges as to the extent of the penalty recoverable on agreements between the indigo manufacturer and the cultivator. To remove these inconveniences, the Regulation enacted, that persons making advances to cultivators under written engagements for the cultivation of the indigo plant, and for the delivery of the produce, should be held to have a lien or interest in the indigo plant, enforceable under the rules of this Regulation.

If a manufacturer should have cause to complain that a person with whom he had engaged for the delivery of indigo was evading his contract, or had entered into engagements to deliver the same produce to other persons, he might present a petition of complaint to the zillah judge, who would immediately issue a summons for the attendance of the cultivator, and would also cause a bamboo to be erected on the ground where the plant was growing, as a public notice of the claim preferred, with a view that all persons desirous of contesting the plaintiff's claim, or establishing a prior right to the produce, might appear before the court. If no person appeared to contest the claim, the case was to be decided *ex parte*; if the defendant or any third party appeared, judgment was to be given in favour of the party whose right should be established on the inquiry before the judge. If the engagement appeared to have been compulsorily obtained, or if the claim was unfounded, the court were to dismiss the case with costs, and might adjudge reasonable compensation to the defendant. If a claim were preferred to the same produce by another party, the judge was summarily to investigate the respective claims, and determine which had the prior

* *See* Reg. XXXVI. 1793, p. 646.

prior and better title;' preference in all cases being given to engagements duly registered under the provisions of Regulation XX. 1812, before such as were not so registered. Whenever it might appear that the plant, being ripe, would be injured if it were not cut before the decision of the summary inquiry, the judge was authorized to pass an order for the delivery of the plant, at his discretion, to either of the parties, on an engagement to pay a pecuniary compensation, to be fixed by the judge, to the other party, in the event of the decision of the case being ultimately made in favour of the latter.

When a summary award might have been passed under the provisions of this Regulation, the party in whose favour it had been given might set a watch over the crop, and if necessary might require the assistance of the police to prevent the removal of the plant. With the view, however, of protecting the rights of the landholders, it was declared that persons who should possess themselves of the produce under the provisions of this Regulation, should be held responsible conjointly with the ryot for any arrear of rent which should accrue on the ground whereon such plant had been grown.

In cases in which a ryot having received advances under written engagements should have failed to fulfil those engagements, or have sold the produce to others, the aggrieved party might at his option institute either a summary or regular suit; if the summary suit were resorted to, the defendant might be decreed to repay the advance with interest and costs. In a regular suit, the aggrieved party might prosecute both the cultivator and the party to whom the produce had been sold or delivered, who might be adjudged jointly and severally answerable for the full amount of the penalty, with all costs and charges.

The summary suits under this Regulation might either be tried by the judge, or referred to the collector or the registrar. In cases referred to the collector, that officer was to pass a final decision. No appeal was to lie from the summary decision under this Regulation, either of the judge or the collector or registrar. Any person, however, whose claim under a deed of engagement had been set aside, or who was otherwise dissatisfied with the summary decision, might institute a regular suit for the establishment of any claim or interest to which he might deem himself entitled. The Regulation concluded with a declaration regarding the stamps to be used, which were to be regulated by the amount advanced as the consideration for entering into the agreement.*

Regulation V.—1830.

Breach of Indigo Contracts declared punishable by Magistrates.

Reg. V. 1830.

By this Regulation, enacted for the more effectual enforcement of engagements relative to the cultivation and delivery of the indigo plant, it was enacted, that all persons who had instigated ryots to evade the performance of their engagements might be sued and adjudged answerable for the amount of the penalty and costs conjointly with the contracting ryot. Power was given to magistrates to convict persons who had received advances and entered into written engagements, but who had refused to sow or cultivate the ground, and to sentence them to imprisonment, not exceeding one month for the first offence, and two months for a repetition. The magistrate might also compel the defaulter to sow or cultivate the ground according to his agreement. Persons wilfully damaging indigo crops were declared punishable by the magistrate with six months' imprisonment and 30 rattans, or a fine not exceeding 200 rupees, commutable to six months' further imprisonment. Zillah judges were authorized to receive applications from persons who had completed their engagements to be released from their obligations. The judges were in such cases to make summary inquiry, and if no balance was due from the petitioner, or if he paid into court any balance that might be due, the judge was to declare him released; if the proprietor of the factory refused to receive the amount tendered, the money was to be returned to the petitioner, and the proprietor was to be left to seek his remedy by a regular suit.

* This Regulation was extended to the Ceded and Conquered Provinces by Regulation V. 1824.

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PART III.—Civil Judicature—MISCELLANEOUS REGULATIONS—*continued.*

Regulations for the Administration of Justice.

(C.)—APPOINTMENT and REMOVAL of NATIVE PUBLIC SERVANTS in all DEPARTMENTS.

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(C.)

APPOINTMENT and REMOVAL of NATIVE PUBLIC SERVANTS in all DEPARTMENTS.

REGULATION V.—1804.

Appointment and Removal of Native Ministerial Officers.

Reg. V. 1804.

THE preamble to this Regulation stated, that for the purpose of insuring a faithful, able and diligent discharge of the important duties assigned to the natives in the several public offices of the Judicial and other departments, it was necessary that they should be secured in the possession of their offices, so long as they should discharge their duties with diligence, ability and integrity; that the selection of persons to fill such offices should be made with due regard to character and qualification, and that they should not be liable to removal without proof of incapacity or misconduct. That although these objects had been provided for in regard to some principal native officers, it had not been so with regard to others. This Regulation therefore enacted, that the appointment, resignation and removal of the head ministerial officers in the civil and criminal courts, as well as in the Revenue and other departments of Government, should not be at the discretion of the courts or public officers under whom they might be serving, but should have the previous sanction of the Governor-general in Council. The Regulation directed, that whenever the authorities under whom any such officers held their appointments might see cause for the removal of any officer, they should communicate to them the grounds upon which he might be considered undeserving of continuance in his station, and call upon him to state what he might have to offer in his defence; after which they should submit through the Sudder Dewanny or Nizamut Adawlut, Board of Revenue or Trade, or other controlling authority under whom they acted, a statement of the case, with copy and translation of the native officer's defence, and all material proceedings and documents for the consideration and orders of the Governor in Council. The court or board were to accompany the reference, with their opinion on the case.

The foregoing rules regarding the cause of investigation and report were declared applicable to cauzees and law officers, not being head officers, employed on the establishments of the zillah and provincial courts. Native collectors, or others whose salary amounted to 10 rupees per mensem, but whose removal or appointment by the Governor-general in Council was not provided for, were not to be removed without a similar report to the Sudder Adawlut, Board of Revenue or Trade, or other controlling authority of the department in which they served, and without their previous sanction and orders.*

Reg. VIII. 1809.

The preamble to this Regulation stated, that the observance of the rules of Regulation V. 1804, requiring a reference to the Governor in Council, before the removal or appointment of the principal ministerial native officers in the several departments of Government, had been found productive of considerable labour and occupation of the time of Government, to the interruption of other business of importance; that the objects stated in the preamble to Regulation V. 1804, might be as effectually obtained, with some modification of the requisition for a full report of proceedings, by transferring to the Sudder Dewanny Adawlut, and the provincial courts, and the Boards of Revenue and Trade, the power of confirming the appointment, resignation and removal of such native officers, with exception, however, of the law officers of the courts of Sudder Dewanny and Nizamut Adawlut, whose appointment and removal, from the nature of their functions, ought still to be reserved to the Government. The Regulation accordingly enacted, that the appointment and removal of the law officers of the provincial, zillah and city courts, and of the zillah and city cauzees, should be vested in the Sudder Adawlut; and those of the native ministerial officers of zillah and city courts in the provincial courts; and those in the Revenue and Commercial departments, in the controlling Boards of those departments respectively; provided that no alteration in the general distribution of duties, nor any addition to the fixed establishment should be made without the special sanction of Government.

* By Regulation II. 1813, native treasurers and collectors of the revenue were declared amenable to punishment before the courts of circuit, for perverting to their own use the public money entrusted to their charge.

Appendix, No. VI.—*continued.*

(2.)

ABSTRACT of the REGULATIONS of the *Bengal* Government for the Administration of CRIMINAL JUSTICE, arranged under appropriate Heads.

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Sketch of the Mahomedan Criminal Law.

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CRIMINAL JUDICATURE—LEGISLATION.

SKETCH of the GENERAL PRINCIPLES of the MAHOMEDAN CRIMINAL LAW.

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PRELIMINARY REMARKS.

Preliminary Remarks.

WHEN the British Government succeeded to the administration of justice in the provinces of Bengal, Bahar and Orissa, they found Mahomedan criminal law established, and well known to the people, and Mahomedan lawyers trained to its study and its execution. Indeed, when the officers of the British Government first took their seats on the judicial bench, it was in character of assessors to the kazees under the Mahomedan rule, and to see that they performed their duty. Thus mixed up with the administration of Mahomedan law, when the British Government made provision for the establishments of courts of criminal justice, the modification of that law was the most simple and the most popular mode of proceeding.

The Mahomedan law is based on the Koran, all the precepts of which, as construed by the highest legal authorities, are deemed imperative on the judge. But the precepts of the prophet could not comprehend all the cases to which the varied circumstances of life give rise. The Koran therefore, though the chief, was an insufficient rule of itself.

The judgments and opinions of Mahomed being paramount to all other authority, his sayings, as recorded by his companions and followers, and by those who received them by oral tradition from his contemporaries, have been collected together in various tracts, and form a second authority of the Mahomedan law.

Next in weight are esteemed the concurrent opinions and judgments of those who enjoyed the benefit of personal communication with Mahomed, on subjects on which no saying of the prophet himself is to be found. Reports of such opinions exist in considerable numbers, and form the third authority for the guidance of Mahomedan lawyers.

Failing all these, the judge is permitted to exercise his own judgment, under the guidance of analogy, and to apply the best principles to the case before him.

Very large collections of decided cases have been made and are diligently studied by Mahomedan lawyers.

It is known that the disputes respecting the succession to the Khalifat created a schism or division, which subsists to this day, between those who consider the succession of Aboo Bucr to have been proper, who are styled "Soonies," and are considered the orthodox party; and those who hold that Ali was the lawful successor of Mahomed, and are styled "Shiyas." The consequence of this division is, that each party attaches credit to the traditionists, respectively, as they are "Soonies" or "Shiyas." The Mahomedan rulers of India were "Soonies."

It may be fairly allowed that the Arabian jurisprudence is a science of great extent, and the study of it calculated to produce acute reasoners; and it must in justice be added, that many of the law officers of the highest rank in our Indian courts have proved able judges.

See Sir William Jones's Translation of Al-Sirajiyyah, Preface, page 3.

Sir William Jones, in speaking of two Mussulman authors who wrote on the law of inheritance, says, "Their compositions have equal authority in all the Mahomedan courts, which follow the system of Aboo Hanifah, with those of Littleton and Coke in the courts of Westminster; and there is indeed a wonderful analogy between the works of the old Arabian and English lawyers, and between those of their several commentators; with this difference in favour of our own country, that Littleton is always too clear to need a gloss; and with this difference in favour of the Arabs, that the sole object of Sharif was to explain and illustrate his text, without any ostentatious display of his own erudition." The lawyer Aboo Hanifah, of whom Sir W. Jones spoke in the passage above quoted, and his two disciples Yusuf and Mahomed, are the chief authorities on the criminal law, according to whose opinions

opinions the futwas* of the law officers in the Company's courts in India, are by the Regulations required to be given. In the same work from which the foregoing quotation was made, the following passage is to be found:—"This may be no improper place to inform the reader, that although Aboo Hanifah be the acknowledged head of the prevailing sect, and has given his name to it, yet so great veneration is shown to Aboo Yusuf, and the lawyer Muhammed, that when they both dissent from their master, the Mussulman judge is at liberty to adopt either of the two decisions, which may seem to him more consonant to reason, and founded on the better authority."

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Sketch of the Mahomedan Criminal Law.

* Decisions, judgments.

As a system, the Mahomedan criminal law is mild; for though some of the punishments which it sanctions be barbarous and cruel, yet not only is the infliction of them rarely rendered compulsory on the magistrate, but the law seems to have been framed with more care to provide for the escape of criminals, than to found conviction on sufficient evidence, and to secure the adequate punishment of offenders.

See Reg. IX. 1793.

When it is considered that the commands and sayings of Mahomed can only embrace a part of the cases that come for adjudication before a criminal tribunal; that the authenticity of many traditions is disputed; that the application of a rule to a case must be frequently open to dispute, it will not be matter of surprise that the rules laid down in the works of learned Mussulmans on the classification of crimes, under various circumstances, should exhibit important differences; and that the futwas or judgments of the native lawyers of India, in applying tradition, analogy and precedent to the cases laid before them, should frequently be inconsistent with the views of enlightened Europeans.

The difficulties and uncertainties in the construction and application of the law were not the only points which early embarrassed the administration of it under British rule. Some of its principles were manifestly unjust and absurd; the means provided for giving effect to its sanctions were inefficient; the inferior judges were venal and corrupt, and the control of the Nazim,† or chief criminal judge, was weak and partial.

Succeeding to the administration of justice in a country where such a system was in operation, with such instruments to be employed, and such aids to be obtained, Mr. Hastings endeavoured, as early as 1772, to remedy the most glaring of the existing evils, by substituting merciful punishments for mutilation and torture; by making the public good, not individual satisfaction or revenge, the principle and measure of public punishments; and by placing the general control in the hands of the British Government.

In 1773 it was declared by the Supreme Council of Bengal, that the sovereign power in every Mahomedan state reserved to itself the right of interposing its authority, to prevent abuses of the law, and to provide a remedy for extraordinary evils; and in conformity with these principles, the Governor-general assumed a general control over the administration of criminal justice, which he exercised for eighteen months, till April 1775, when the superintendence was transferred again to the representative of the Mahomedan governor, the Naib* Nazim, under whom criminal justice was administered in the provinces by Mahomedan judges styled Darogahs. The English judges of the civil courts were constituted magistrates in 1781, but their power did not extend beyond the apprehending and committing of criminals. In 1781 the powers of collector, judge and magistrate, were united in the same persons, and they were authorized to punish for petty offences, but all crimes of magnitude continued exclusively cognizable by the Naib Nazim and his subordinate officers.

* Deputy.

In this state remained the administration of the criminal law until the Government of Lord Cornwallis, who, with a view to ascertain the nature and causes of the defects still existing in the constitution and proceedings of the criminal courts, directed certain inquiries to be made of the magistrates in the several districts, the result of which he laid before the Council on the 1st December 1790, with suggestions for the amendment of the most glaring and important defects: first, in the Mahomedan law itself; secondly, in the constitution of the courts established for the trial of offenders. His Lordship argued the competence of the British Government to amend the law, as might appear essentially necessary, from the recognition by Parliament of the propriety of the modifications introduced in 1772, and the subsequent passing of the Act 13 Geo. III. chap. 63, vesting extensive powers of control and management in the Governor-general and Council of Bengal.

The alterations proposed in the law were, 1st. That the criminality of homicide should be judged of, not by the weapon or means used, but by the intention of the slayer, however discoverable. 2d. That the heirs of a murdered person should not be allowed to remit the punishment of the murderer. 3d. That imprisonment, hard labour and fine should be substituted for mutilation of limb.

The defects in the administration arising from the constitution of the courts were, that the tribunals before which the prisoners were tried were at so great a distance from the superior court, who were to confirm the sentence, that the lower courts might and did so draw their proceedings as to lead to whatever result they desired, however inconsistent with justice; and that delay and detention of prisoners operated both to oppress the innocent, and to weaken the effect of punishment. The rules framed to correct these evils were promulgated in 1790, and were re-enacted in the form of a "Regulation" in 1793.

Reg. IX. 1793: *see* Preamble, head "Magistrates."

PRINCIPLES

† The chief officer of criminal justice, who was the governor of the province or soobah.

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PRINCIPLES OF PUNISHMENT.

Sketch of the Mahomedan Criminal Law.

THE Mahomedan law declares punishment applicable to penal offences, according to three principles of judicial retribution.

Principles of Punishment.

First Principle.

RETALIATION is due to the injured party, or his heirs or representatives, for wilful homicide and severe bodily injury; or if equal retaliation be impossible, then compensation must be made in money. Such retribution, however, being the right of the heirs of the slain, it may be claimed or remitted by them.

Second Principle.

PARTICULAR punishments having been prescribed in the Koran for specific offences, namely, whoredom, slander of whoredom, drinking wine, theft and robbery, in vindication of "the right of God" or public justice, those punishments are to be inflicted by the magistrate only; and whether claimed or not by the party injured, who has no power to remit or compound them.

Third Principle.

THE retaliation and the punishments which are to be adjudged under the foregoing heads being subject to many legal "*impediments*," created either by a defect of certain requisite characteristics to constitute the full crime, or by compromise between the parties, or by some particular in the relation which the injurer and the injured bear to each other, or by some insufficiency in the evidence; and many offences not being at all provided for under either of the two preceding heads, some of which are of so heinous a character as to require capital punishment, and others of a lower degree of criminality—some of private, others of public detriment—it seemed necessary that a discretionary power should be vested in the Sovereign or his representative, to inflict adequate punishment in all such cases, extending even to death itself when requisite, in vindication of "the right of God or of the individual" injured, and in support of public justice.

FIRST CLASS OF JUDICIAL RETRIBUTION.

First Class.—Retaliation.

RETALIATION (KISAS.)—COMPENSATION OR THE PRICE OF BLOOD (DEYUT.)

Kisâs. Deyut Jinâyât.

RETALIATION is declared to be due for homicide, and for severe bodily injury not causing death, both of which are included in the Arabic term, jinâyât.

I.—RETALIATION FOR HOMICIDE.

Kutl.

HOMICIDE is considered as justifiable, or culpable.

Justifiable Homicide. (*Kutl-i-mobah.*)

Justifiable Homicide. Kutl-i-mobah.

Homicide is declared justifiable in the following cases:

1st,—In prosecution of war against hostile infidels, for the advancement of Islam, or in support of a Mussulman community.

2d,—Of an apostate from the faith of Islam, who, after being duly called upon, may persist in his apostacy.

3d,—Of an insurgent against the rightful Imam, when slain in the act of insurrection, or of open resistance to the established government.

4th,—Of a condemned criminal, by order of the kazee or magistrate authorized to pass sentence of death.

5th,—Of a murderer liable to retaliation, if killed by a person legally entitled thereto, or by his express direction, although sentence of retaliation may not have been passed by the kazee.

6th,—In self-defence or in defence of another, if life be endangered or be thought in danger from the assault of a person having a drawn sword, or other mortal weapon, provided self-defence be manifestly unattainable without killing the aggressor.

7th,—In preservation of property from theft or robbery.

8th,—In prevention of adultery, rape, or other offences of a heinous nature, being chiefly such as by the Mahomedan law are punishable with death.

9th,—The killing another at his express desire or command.

10th,—By compulsion, under menaces which induce a fear of death; in this case it is held by some authorities that the penalty of retaliation is transferred to the compeller.

In several of the instances of justifiable homicide given above, the slayer, according to some opinions, is liable to pay the fine of blood, or to discretionary punishment.

It may be observed generally, that a variety of questions arise on the application of the principle to specific instances under each of these heads; and that generally to reduce a case within justifiable homicide, the necessity of prompt execution, without reference, must be fairly inferrible from the circumstances; otherwise, resort ought to be had to the public authority to punish.

Culpable

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Sketch of the Mahomedan Criminal Law.

Culpable Homicide.

The Mahomedan law distinguishes five sorts of culpable homicide, of which the first only entitles to retaliation.

Culpable Homicide.

1st. "Wilful homicide."—The voluntary act of a responsible person, (i. e. of one who is adult and sane) done with a murderous intention, inferred from the use of a weapon likely to produce death. Within this definition is brought the death of a person whom one has wilfully wounded with a deadly weapon, if the wound occasion death, though death was not intended; also the case of one wilfully disabled, so as to be constantly bedridden until death. The punishment of this crime is retaliation of death, and exclusion from inheritance to the property of the slain.

Kutl-i-umd.

Shibah-i-umd.

2d. "Wilful-like homicide."—The voluntary act of a responsible person, causing death by using a weapon not likely to produce death, the blood of the person slain being "under protection."

A great nicety of distinction arises, and a vast variety of cases are cited, in which the distinction has been settled into precedent, as to what is "wilful murder," subjecting the offender to retaliation, and what "wilful-like," which incurs only the fine of blood.

It being declared by the law that the intention of the slayer is to be inferred from the instrument used, different authorities have concluded differently, as to the power of the means employed, ex. gr. in the case of water and fire, in reference to the possibility of escape from them, &c. A singular instance of the reasoning used in the application of this principle occurs in regard to death by poison. It is held by the best authorities, that the design to kill is not inferrible from the administration of poison, because poison is occasionally administered medicinally, and it is possible that the person who gave it may not have been aware that the quantity was excessive. It must, however, be remarked, that although, by this sort of reasoning, a crime may be taken out of a specific class of punishment by the doubt raised, it is still left to the cognizance of the magistrate, under the third principle, who may deal with it according to sound discretion. The principle on which legislation in India has proceeded, has been to use that "discretion" by declaring of punishments, to be inflicted according to rules laid down in the code of judicial regulations.

The punishment for this second species of homicide is a fine of a hundred camels, or if commuted to a money payment, 1,000 denars, a sum variously estimated from about 250*l.* to about 350*l.* To the above are added expiation and exclusion from inheritance.

Kutl-i-khutá.

3d. "Homicide by error."—The "errors" which characterize this offence are of two kinds.

First,—In the instrument producing an effect not intended or foreseen by the agent; as when an arrow shot at a mark hits a man. If an arrow shot at one person pass through him, and afterwards kill another, the homicide is wilful as regards the first, and erroneous as regards the second.

Second,—In the apprehension of the agent; as when one shoots at what he apprehends to be a deer, but which proves to be a man; or when a Mussulman kills another Mussulman whom he took to be a hostile infidel.

The punishment is the same as for wilful-like homicide.

Kutl-i-kaeem mokam-i-khutá.

4th. "Homicide by an involuntary act," as by falling on a person from the roof of a house; accidentally dropping any thing on another, &c.

Punishment the same as for wilful-like homicide.

Kutl-ba-subub.

5th. "Homicide by an intervenient cause."—When a person, by doing an illegal act, produces a cause which occasions the death of another; as if a man digs a well in ground not belonging to him, which is a transgression, and another falls into the well and is killed.

The punishment is fine; but expiation is not incumbent, nor is the offender excluded from inheritance of the deceased.

Of the Circumstances requisite to the Enforcement of Retaliation, and those which exclude or bar it.

Retaliation is either of death, for murder; or of mutilation, for bodily injury.

Retaliation of Death.

The requisites to support claim for Retaliation.

The first requisite for retaliation is that the person killed be under perpetual "*protection.*" The Mahomedan lawyers call a country which is governed by a Mahomedan power, "the seat of peace," and a country ruled by a prince of any other religion, "the seat of hostility," and such countries are always virtually in a state of warfare with each other. When an alien visits a Mahomedan country, his residence there is only tolerated for a certain time, and for the benefit of commerce, &c. His permanent continuance can be only as a *slave*, or as a "*zimmee*," that is, a protected alien, subject to the payment of the capitation tax; in the latter character he becomes entitled to perpetual protection, and his death by wilful murder would subject the slayer to retaliation.

The British possessions in India are held by Mahomedan lawyers to be "the seat of peace," on account of the virtually acknowledged sovereignty of the King of Delhi, in whose

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name the coin is struck; the sanctioned administration of the Mahomedan law; and the appointment of kazees for the performance of part of the duties prescribed by it.

Sketch of the Mahomedan Criminal Law.

If the person slain was under permanent protection, the slayer is equally liable to retaliation, whether the party slain was a Mussulman or a zimmee, the slave of another (not the slayers,) or free, a woman or a man, an infant or of mature age, sound in body and mind, or sick, dismembered, blind, lame or insane; for in all these cases the equality of protection, which is a requisite for retaliation, existed between the slayer and the slain; but a Mussulman may not be put to death for a "*moostamin*," that is, an alien in a state of enmity, who has only temporary protection during a limited residence in a Mahomedan country.

Retaliation is not incurred by a parent, or by any paternal or maternal ancestor, for the murder of a child or lineal descendant; in consequence of a specific declaration to that effect in the Koran, and in consideration of the slain having derived existence from the slayer.

Retaliation being the right of the heir, it cannot be awarded against a master for the murder of his slave, for the master would be the only person entitled to demand it, nor for the murder of his child's slave, because the claim for retaliation would accrue to the child against the father, and the enforcement of such a right is forbidden, out of regard to paternity. If the slave were the joint property of the murderer and others, the other owners could not claim retaliation, for their right is not entire, and retaliation of death does not admit of being inflicted in part only.

If a murder be committed by several, one of whom is legally exempt, retaliation is barred against the whole; but if none can claim exemption, then the analogy of equality, which would require that one be put to death for the murder of one, is abandoned in favour of a more approved construction of law, namely, that each individual concerned is as if he alone had committed the act, and the requisite equality being thus established, retaliation is incurred. Another reason assigned for the application of this principle is, because murder is often committed by a number, and one of the purposes of retaliation is to deter others, that the lives of mankind may be in security. The doctrine further rests on a dictum of Omar. An infant's or an idiot's right to claim retaliation belongs to the father.

If a murdered person leave no heir, the kazee, as the representative of the sovereign, may enforce retaliation.

If two persons jointly strike another, one with a mortal weapon, the use of which characterizes wilful murder, and the other with a weapon not likely to inflict death, retaliation is barred against both; but the fine of blood is payable in equal shares in the following manner: one half of it is to be exacted from the offender who struck with the mortal weapon, because in all cases in which fine is not the prescribed punishment, but a commutation, the fine is due from the property of the offender; and the other half is to be exacted from the akilah* of the offender, who struck with the weapon not deadly, because specific fines for offences are due from the akilah.

Several curious cases are stated of divided responsibility, arising out of the application of the principles above stated, which cannot fail to produce consequences inconsistent with justice.

Retaliation being the right of the heir or representative of the slain, it is permitted to the heir to forego the claim altogether, or to commute it for a fine of whatever amount the parties may agree upon. If several persons are entitled to retaliation for the same murder, and one of them forgive or compound, the others are bound thereby, and cannot claim retaliation, though they are severally entitled to their respective shares of the fine. But if a man murder two persons, and the heirs of one forgive him, the heirs of the other may claim retaliation. If the offender be put to death for one murder, the heirs of the other murdered person cannot claim the fine of blood. If a murderer condemned to retaliation become insane before execution, he is not to be put to death, but his property is answerable for the fine of blood.

II.—Retaliation for Bodily Injury.

Retaliation for Bodily Injury.

Maiming and other injuries not affecting life, entitle the party injured, in certain cases, to retaliation, in others to pecuniary compensation. An injury to the person entitling to retaliation must be wilful, and admitting of equality in the retribution. The intention is judged of by the circumstances exhibited in evidence, not as in wilful homicide, by the weapon or instrument used; because the destruction of a limb or member may be intended or effected by any instrument, as an eye may be put out by a small rod as effectually as by a weapon.

Equality must exist in the condition of the person injured, and the person to be retaliated upon; and there must be a certainty that the consequences of the retaliation will not be more severe than those of the original injury. On these principles retaliation cannot be claimed,

* By the Institutes of Mahomed, persons inrolled as soldiers or otherwise in the public service are answerable in fines for each other; for persons not in the public service, their families or neighbours were answerable under certain rules, which are supposed, however, to have been intended to have operation only in Arabia, and which at all events have never been considered of force in India. The responsible persons were termed Akilah.

claimed, if one party be a man, the other a woman, or one a slave, the other free; nor is the right limb to be amputated for the left, nor a sound member for an unsound, nor are dismemberments to be made except at the joint, because of the difficulty of maintaining equality, and the danger of life. Appendix, No. 6. Sketch of the Mahomedan Criminal Law.

Personal injuries which do not admit of retaliation, are punishable by fine; the amount of which, in some cases of heavy injury wilfully inflicted, is specifically fixed.

It is competent to the injured party to forego or compound the retaliation, and to remit the fine.

Of the Evidence necessary to the Infliction of the Penalties under the first head of Judicial Retribution.

The Mahomedan law prefers confessions before all other evidence; but to found a conviction of murder, the confession must declare the deadly act to have been wilful. Whatever may be stated in explanation, is to be taken as part of the confession. Evidence.

"If the prisoner plead 'not guilty' to a charge of murder, the evidence requisite to establish it so as to warrant a sentence of retaliation, is the positive testimony of two competent eye-witnesses of ascertained or apparent credit. The testimony of slaves, deemed the property of their masters, is not admissible in any case; as their state of bondage precludes them from exercising any act of authority, which the delivery of evidence is considered to be. The testimony of women is also not admitted to prove a charge of wilful homicide, on the ground of a tradition, that in the time of the prophet and his two immediate successors, it was an invariable rule to exclude the evidence of women in all cases involving either Kisâs or Hudd. In cases of homicide not wilful, as in all other cases wherein specific punishment or retaliation is not incurred, the evidence of one man and two women is received as equivalent to that of two men. But if the person accused be a Mussulman, it is requisite that the witnesses against him be also of the same religion. The testimony of *zimmees* or infidel subjects, with respect to each other, is admissible, although they be of different religions. The evidence of a Mussulman is also valid against a *zimmee*, and the testimony of both has validity against an infidel *moostamin* or protected stranger. But the evidence of the latter is invalid against any person except one of his own countrymen, who is also a protected alien. Convicted slanderers, atrocious criminals, and persons of known bad principles or character, are not admitted to be sufficient witnesses from want of credit. And the testimony of near relations or connexions, such as father and son, grandfather and grandson, husband and wife, master and slave, in favour of each other, is not admissible, in consideration of their relative interests."

SECOND CLASS OF JUDICIAL RETRIBUTION.

Specific Penalties (Hudd.)

The specific penalties ordained by the law to be inflicted for certain offences in vindication of the "right of God" or public justice, can only be enforced by the sovereign or his representative; they admit of no discretion in their application, when all the circumstances required for their infliction are found to concur. But the requisites to complete conviction are so many and various, that they can rarely be found together; and in regard to one of the crimes amenable to Hudd, namely, whoredom, there is a dictum of the prophet, which can scarce ever fail to save an offender if the magistrate choose to allow its full influence, namely, "Seek a pretence to prevent punishment according to your ability." 2d Class.—Hudd.

Specific penalties, amounting in some cases to capital punishment, are ordained for five several offences:

1st. Whoredom. 2d. Drinking Wine. 3d. Slander of Whoredom. 4th. Secret Theft. 5th. Open Robbery.

1st. *Zina.—Whoredom.*

To constitute the crime, it is necessary that the act should have been committed by a Mussulman married, sane, free and of mature age, with a woman in whom the man has no right either by marriage or bondage. The punishment is barred by the existence of any doubt on the question of right, or by any conception in the mind of the accused that the woman was lawful to him, and by his alleging such conception as his excuse. Zina.

To the establishment of the crime by evidence, the positive testimony of four men, of ascertained credit, is requisite; if less than four competent witnesses bear evidence, they are liable to the punishment of slander, unless the accused subsequently confess; if any witness retract, his testimony is no longer valid.

The confession requisite to establish the charge must be made by a person of sound mind and mature age, at four different times, at four different sittings of the kazee, who is directed to turn the party away, without receiving the confession until the fourth time, and is authorized to suggest a denial or the mention of circumstances which may exculpate or absolve from the legal penalty.

The punishment for the offence, when legally established in all its points, by confession or evidence, is lapidation. If the offender be not a Mussulman, or be unmarried, then the punishment is 100 stripes; if he be a slave, 50* stripes. The punishment is the same for the woman

* The punishment of a slave is, by a general rule, half that of a free person.

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Sketch of the Mahomedan Criminal Law.

woman as the man. If the charge have been established by the evidence of witnesses, they are required to commence the stoning, which is to be continued by the imam or Kazee and concluded by the bystanders. If the conviction be founded upon the confession of the party, the imam or kazee is to begin the stoning, and the people present are to finish it. Scourging is directed to be inflicted with the greatest leniency; and the magistrate may add banishment or imprisonment for a limited period.

Confession may, at any time, be retracted, even during the infliction of punishment, and the party must then be set free. A conviction cannot be founded partly on confession, partly on evidence.

Besides the particulars above enumerated, a great variety of circumstances are stated in the books, which may prevent the conviction or the punishment, especially in reference to the character of the witnesses, and the nature and consistency of their evidence.

2d. *Shoorb.—Drunkenness.*

Shoorb.

This crime consists in drinking wine or other fermented liquor, especially of grapes, dates and raisins, to intoxication. Considerable difference of opinion appears to exist in regard to certain liquors, whether they are exempted or not; also whether the taking of some liquors, if not to intoxication, be prohibited. To render a person liable to punishment he must be a Mussulman, adult, sane, and capable of speech. The crime may be established by confession when the party is sober. Retraction will exempt from punishment. The testimony of two witnesses is necessary to establish it by evidence; the offender must be seized while yet affected by or smelling of the liquor.

The punishment for a free man or woman is eighty stripes, and for a slave forty.

3d. *Kazif.—Slander of Whoredom.*

Kazif.

This crime is defined to be the false imputation of whoredom to a Mahomedan man or woman of good reputation, free, chaste and adult; the proof that the offence imputed had actually been committed, discharges the accused. It is necessary that the party injured should himself prosecute, because in this case the right of the individual is blended with the public right. The proof may consist in the confession of the accused, which he is not permitted to retract if once made, or in the evidence of two credible male witnesses. The prescribed punishment is eighty stripes for a free person, and forty for a slave. The testimony of a person punished for slander is for ever after inadmissible; the slanderer of a deceased person may be prosecuted, if it can be shown that the slander affects the living; lapse of time does not prevent the prosecution, as it does for whoredom and drunkenness.

4th. *Surikah-i-soghra.—Secret Larceny by Stealth.*

Surikah-i-soghra.

This offence is defined to consist in a sane and adult person, wrongfully and furtively, taking the undoubted property of another, such property being in due custody, and of the value of not less than three dirms. The "custody" requisite to constitute the crime is of two kinds—of place—of person. 1st. Custody of place is when the property is in a house or other receptacle, generally used for preserving the property; and to constitute the offence, the thing stolen must be taken away from such place: 2d. Custody of person is when the property is within sight of the possessor, whether on a road or plain, and whether the keeper be asleep or awake. The crime is complete if the property be seized by the robber, though it be not carried away; and the personal custody is perfect, whether the possession of the property by the holder be absolute and permanent, or delegated and temporary. The crime may be established by confession, or by the evidence of two credible male witnesses. If a confession be retracted, the infliction of specific punishment will be stayed; but this will not prevent the restoration of the property. In giving evidence, both the prosecutor and witnesses are permitted to use such terms as may secure the right of the owner, without subjecting the party accused to the infliction of the prescribed punishment.

The penalty for a first offence is the amputation of the right hand, and for a second offence, that of the left foot. If the crime be further repeated, the criminal may be imprisoned until he repent, or for life; or in cases requiring exemplary punishment, he may be put to death.

In cases of robbery, the Mahomedan law has two objects in view: one, the punishment of the offender, which is so severe that every facility is afforded to avoid its infliction; the other, the restoration of the property, to effect which various provisions of the law directly tend, and which does not take place if the prescribed punishment be inflicted.

The existence of any doubt as to the completeness of the crime, in regard to any one of the particulars stated in the definition, will prevent the infliction of the punishment; and of such doubts a great many instances are enumerated, especially as to the custody; as when the robbery is committed by kindred or by domestic slaves, who may have easy access to the property; also as to the value of things, such as are not of intrinsic value, or were originally of common use, as wood, fish, birds, &c., or things of a perishable nature, are not held to be entitled to the protection afforded by such severe penalties. In the application, however, of these principles to specific cases, the Mahomedan lawyers occasionally establish precedents inconsistent with the principles of justice. Amputation is prevented if the robber return the property before prosecution, or if the party robbed choose to give up the property to the robber.

5th.

5th. *Surikah-i-kobra.—Highway Robbery.* Sketch of the Mahomedan Criminal Law. Surikah-i-kobra.

This crime is defined to consist in a party going forth with force capable of resistance, for the purpose of committing robbery, or a single person so going forth prepared for resistance, under confidence in his strength and courage. There are five conditions requisite for the infliction of the prescribed penalty: 1st. That there be force sufficient to overcome opposition from travellers, whether the party be armed with mortal weapons or not; 2d. That the act be committed at a distance from any city, the extent of that distance being a point on which opinions differ; 3d. That it be committed in a country which is the "seat of peace;" 4th. That all the circumstances which constitute "larceny" be found to exist, the robbers also being strangers to the robbed, and legally subject to punishment; 5th. That robbers be seized before they repent, and before restoration of the property to the person robbed.

"Four descriptions of highway robbers are specified in the Hidayah, with the penalties incurred by each upon conviction, according to their respective degrees of criminality: first, Those who are seized before they have robbed or murdered any person, or put any person in fear; secondly, Those who have committed robbery only, whether upon a Mussulman or infidel subject; thirdly, Such as have perpetrated murder without robbery; fourthly, Such as have committed both robbery and murder. Of these descriptions, the first are to be imprisoned, until by their appearance and demeanour they show evident signs of contrition. The second are to suffer amputation of the right hand and left foot, provided the property taken be of such value as, when divided amongst the whole of the robbers, amounts to ten dirms for each. The third class are to suffer punishment of death; and as it is inflicted by the right of God, for public example, and not to satisfy a private claim to Kisas, the forgiveness of the heir of the slain is of no avail. With respect to the fourth and last, it is optional with the imam, either to cut off a hand and foot, and then put them to death, or he may put them to death at once without amputation. He may also order them to be crucified."

"If any one among a gang of robbers commit murder, the whole are liable to the prescribed penalty, 'because,' says the author of the Hidayah, 'the punishment in this instance is considered as a penalty for the assault of the whole, which is established by each of them being aiding and abetting to the others.' But if any one of the band of robbers be an infant or a lunatic, or dumb, or a relation within the prohibited degrees of the person robbed or murdered; or if any of the robbers have a joint interest in the property plundered, or such property be not in legal custody with respect to any one of the robbers; or if the property taken amount not in value to ten dirms for each robber; or lastly, if the person robbed or murdered be not a Mussulman, or under the permanent protection of a Mahomedan government, a sentence of Hudd is prevented against any of the party. In this, as in the preceding case, one great object of Mahomedan law being the restoration of stolen property, if the robber repent before he is seized, the infliction of the punishment is thereby prevented, but the property stolen is restored to the owner."

It may be remarked generally, of crimes subject to the prescribed penalties termed "Hudd," that the commission of them cannot be proved by the evidence of women, except where a private right is co-existent with the public claim; in which cases the evidence of two women is received as equivalent to that of one man, in corroboration of male testimony: that witnesses are encouraged to withhold evidence which may lead to the infliction of "prescribed punishment," because the concealment of the faults of a brother Mussulman is deemed equally virtuous with the establishment of a penal act: that extorted confessions are not admitted: that a slave is punished only to half the extent to which a free person is subject, in conformity with a dictum of Mahomed: and that one punishment includes all offences of the same description committed before such punishment.

THIRD CLASS OF JUDICIAL RETRIBUTION. Third Class.

Discretionary Punishment.

Penal Correction (Tazeer)—Punishment for Example (Seasut.)

Of the penalties provided under the former heads, some were claimable by the injured parties, in retribution or compensation for the injury sustained by themselves, as Kisâs; others were commanded to be inflicted in satisfaction of public justice, as Hudd; and no discretion was allowed as to the infliction of them where the offence was complete, according to the legal definition, and proved by such evidence as the law required, which was always positive evidence, given by duly qualified witnesses. Tazeer. Seasut.

The discretionary punishments, of which the adjudication is vested in the Imam, *i. e.* the sovereign or his delegates, were intended to provide for—

First.—Cases not included in the preceding classes, or for which the specified penalties were inapplicable or insufficient, as, 1st. Some specific heavy offences, not particularized among those punishable by "Hudd," in the law books; 2d. Heinous and flagrant crimes, such as are included generally in the class "Hudd," but the commission of which, in the particular instance, was attended with circumstances of particular atrocity and aggravation, requiring punishment beyond the ordinary measure, for example's sake; or the perpetrators of which were hardened offenders, whom there was no hope of reclaiming from their evil courses by temporary correction; 3d. Petty

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offences of a private nature, or of inconsiderable public detriment, for which the offender deserved chastisement for his personal correction and amendment, such as abusive language, not amounting to slander.

Second.—Cases in which, though the crime committed was included in the heads "Kisâs" or "Hudd," the penalties could not be inflicted, because—1st. The direct proof by competent witnesses, required by the law, was wanting; or, 2d. Because the punishment demandable for the private satisfaction of the injured party had been remitted or compromised; or, 3d. Because the application of "Hudd" or "Kisâs" was precluded by some legal defect or doubt; for it is a principle that where a doubt exists of the full applicability of the rule prescribed under "Kisâs" or "Hudd," the infliction of the punishment cannot take place.

The crimes for which punishment is to be inflicted, under the third branch of Judicial Retribution, are either such as are injurious to individuals, or such as affect public security, or they are of a mixed character.

In cases where the right of God, or public justice, is considered to prevail, the Imam, *i. e.* the sovereign or his delegate, is exclusively competent to remit the punishment of the criminal; and even this competency is qualified by a condition of ascertained previous repentance. In such cases, as in other public prosecutions, the evidence of the prosecutor is admissible, or the offender may be brought to trial and punishment, without any complaint from the party injured. But when the right of the individual is deemed to prevail, his claim, or that of his representative, is requisite, as in other instances of private retribution; the claimant, though incompetent to bear testimony in his own cause, is at liberty to forgive the offence; for establishing which, moreover, secondary witnesses, viz. persons appointed by absent witnesses to give evidence for them, who are not admissible in any public prosecution, may be admitted, or in defect of proof, the accused party may be put upon his oath.

Although the Mahomedan law requires positive evidence to justify a conviction, leading to the infliction of "Kisâs" or "Hudd," it admits of circumstantial evidence for the adjudication of discretionary punishment. The following example is quoted in Harington's Analysis: "If a man come out of a house with a bloody knife in his hand, and he appear terrified and run away; and the people immediately entering the house, find a person whose throat has been recently cut, the blood dropping from it, and there be no other man in the house; these circumstances warrant a strong presumption that the man described is the murderer. A mere possibility of the person in question having cut his own throat, and escaped over the wall, is too remote from probability to be relied upon."

The application of this sort of evidence to conviction is termed in the Indian Judicial Codes of the British Government, "Strong Presumption."

When the discretionary punishment is to be inflicted for the personal correction of the offender, or in a case to which the specific penalty was not held applicable, owing to circumstances of defect or extenuation, the discretionary punishment was not to come up to the measure of "Kisâs" or "Hudd." Thus, in a case of flagellation, the lowest degree of that kind of correction prescribed under "Hudd" being that for slaves, viz. forty stripes, the sentence under "Tazeer" is considered lawful only to the extent of thirty-nine stripes.

On the other hand, where the sovereign authority was to exercise discretion in awarding punishment to flagrant offences, for example's sake, the punishment of death itself might be inflicted if necessary.

In the application of these principles to particular instances of criminality, considerable differences of opinion prevail in different authorities of law.

Considerable variety has been found, as might be expected, in the exposition of the law by the kazees and muftis employed in our courts, according to the extent of their learning, and the powers of their understanding. To check the evils and injustice occasionally arising from this cause, the powers of the judges of the English courts to control and modify the futwas have been from time to time extended, as will be seen in the abstracts of the Regulations. The sketch which has here been presented of the Mahomedan criminal law is necessarily imperfect and defective; but it is hoped that it may suffice as an introduction to the abstract of the Code of Criminal Regulations, to render the object of its provisions more readily perceptible, and to show that the modifications introduced by the British Government were made to conform with the principles of the law on which they were ingrafted, as far as could be done consistently with the great object of administering equal justice.

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(2.) Regulations for the Administration of Criminal Justice. (A.)

PART THE FIRST.

CRIMINAL JUDICATURE—GENERAL.

(A.)—APPOINTMENT, POWERS and DUTIES of MAGISTRATES in the Apprehension and Committal of Offenders, and in punishing certain Offences.

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(A.)

POWERS and DUTIES of MAGISTRATES in the Apprehension and Committal of Offenders, and in punishing certain Offences.

REGULATION IX.—1793.

Review of former Systems of Administration.—Powers and Duties of Magistrates.

Reg. IX. 1793. Rules of 1790 re-enacted.

THE Preamble to this Regulation contains a brief history of the several systems successively adopted by the British Government for the administration of criminal justice, from August 1772 to December 1790, when courts of circuit were established, under the superintendence of English judges for the trial, in the first instance, of persons charged with crimes or misdemeanors, and the Governor-general and Council were constituted the chief criminal court. The Preamble is as follows:—

"Pursuant to the Regulations passed by the President and Council on the 21st August 1772, criminal courts, denominated Foujdarry Adawluts, were established in the interior parts of the provinces, for the trial of persons charged with crimes or misdemeanors; and the collectors of the revenue, who were covenanted servants of the Company, were directed

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to superintend the proceedings of the officers of those courts, and on trials, to see that the necessary witnesses were summoned and examined, and due weight was allowed to their testimony, and that the decisions passed were fair and impartial. By the same Regulations, a separate and superior criminal court was established at Moorshedabad, under the denomination of the Nizamut Adalut, for revising the proceedings of the provincial criminal courts in capital cases; and the committee of revenue at Moorshedabad was vested with a control over this court, similar to that which the collectors of the revenue were empowered to exercise over the provincial courts. Upon the abolition of the committee of revenue at Moorshedabad, the Nizamut Adalut was removed to Calcutta, and placed under the charge of a darogah or superintendent, subject to the control of the President of the Council, who revised the sentences of the criminal courts in capital cases. The above arrangements continued in force, without any considerable alteration, until the 18th October 1775, when the entire control over the department of criminal justice was committed to the Naib Nazim. The Nizamut Adalut was in consequence established at Moorshedabad; and the Naib Nazim appointed native officers, denominated Foujdars, assisted by persons versed in the Mahomedan law, to superintend the criminal courts in the several districts, and to apprehend and bring to trial offenders against the public peace. This system was adhered to, without any material variation, until the 6th April 1781, when, the institution of foujdars not having answered the intended purposes, the general establishments both of foujdars and tannahdars, or police officers acting under them, were abolished. Foujdarry courts, however, were continued in the several divisions, subject, as before, to the control of the Naib Nazim as superintendent of the Nizamut Adalut; and the English judges of the courts of Dewanny Adalut were appointed magistrates, with a power to apprehend decoits and persons charged with crimes or misdemeanors within their respective jurisdictions, and commit them to the nearest Foujdarry court for trial. With a view to enable Government to superintend in some degree the administration of justice in criminal cases, a separate department was at the same time established at the Presidency, under the control of the Governor-general, to receive monthly returns of the sentences passed in the Foujdarry courts; and for the assistance of the Governor in this duty, a covenanted civil servant of the Company was appointed, with the official appellation of Remembrancer to the Criminal Courts. From the inefficacy, however, of the authority of the English magistrates over the zemindars and other landholders, the administration of justice in criminal cases was much impeded; whilst the Regulation which vested the magistrates with the power of apprehending offenders, but without permitting them to interfere in any respect in the trials, gave rise to a new evil. The magistrates being obliged to deliver over to the darogahs, or superintendents of the Foujdarry courts, all persons charged with a breach of the peace, however trivial, and a considerable time often elapsing before they were brought to trial, many of the lowest and most indigent classes of the people were frequently detained for a long period in prison, where their sufferings often exceeded the degree of their criminality. The magistrates, therefore, on the 27th June 1787, were vested with authority to hear and decide on complaints of petty affrays, abusive names, and other slight offences; and under certain restrictions, to inflict corporal punishment, and impose fines on the offenders. But the numerous murders, robberies, and other enormities which continued to be daily committed throughout the country, evincing that the administration of criminal justice was still in a very defective state, and as these evils appeared to result principally from the great delay which occurred in bringing offenders to punishment, and to the law not being duly enforced, as well as to other material defects in the constitution of the criminal courts; and as it was essential for the prevention of crimes, not only that offenders should be deprived of the means of eluding the pursuit of the officers of justice, but that they should be speedily and impartially tried when apprehended, the Governor-general in Council passed certain Regulations on the 3d of December 1790, establishing courts of circuit under the superintendence of English judges, assisted by natives versed in the Mahomedan law, for trying, in the first instance, persons charged with crimes or misdemeanors; and enabling the Governor-general and the members of the supreme council to sit in the Nizamut Adalut (which was for that purpose again removed to Calcutta), and superintend the administration of criminal justice throughout the provinces. Those Regulations, with the subsequent amendments, are now re-enacted, with further alterations and modifications." The Regulation then proceeded to re-enact the rules of 1790, to the following effect:

The judges of the civil courts (Dewany Adalut) of the several zillahs and cities were declared "Magistrates" within their respective jurisdictions, and were to qualify by taking an oath of office, but were not to have jurisdiction within the limits of His Majesty's supreme court of judicature.

Magistrates were required to apprehend disturbers of the peace and persons charged with crimes and misdemeanors. On a complaint being taken down in writing and sworn to, the magistrate was to issue a warrant against the person complained of, and on his apprehension was to examine him, and to take the deposition of witnesses, and of the complainant on oath, in the language best known to the deponents. If the charge was unsupported, the prisoner was to be dismissed; if it was supported by evidence, the prisoner was to be committed or held to bail (according to the nature of the offence), to be tried at the next sessions of the court of circuit.

Confessions (which were to be received with caution) were to be witnessed by as many of the magistrates' officers, or other creditable persons present at the time of their being made, as the Mahomedan law required to give them validity.

The

The crimes of murder, housebreaking, theft and counterfeiting coin were declared not bailable.

Magistrates were authorized to hear and determine complaints for abusive language, calumny, inconsiderable assaults or affrays, and the like petty offences; and to punish the offenders by imprisonment not exceeding 15 days, or by fine not exceeding 50 sicca rupees; except in the case of the offenders being persons paying directly to the Government more than 10,000 rupees revenue, or holding its equivalent in rent-free land; such persons to be liable to a fine not exceeding 200 rupees.

Magistrates were authorized to punish for petty thefts, unattended with aggravated circumstances, by whipping not exceeding 30 rattans, or imprisonment for not more than one month.

In cases in which magistrates were authorized to punish the offenders, they were likewise empowered to inflict on persons preferring vexatious and unfounded complaints, the same measure of punishment as prescribed above for petty offences.*

Magistrates were to provide for the attendance of all parties, witnesses, &c. on the arrival of the court of circuit, and to submit to that court calendars, in English and Persian, of prisoners committed or held to bail; specifying the charges against them, and the names of the witnesses for the prosecution and defence. The calendars to be accompanied by all papers and documents necessary for the information of the court of circuit.

Magistrates were likewise to submit to the court of circuit calendars of persons discharged, and of persons punished by them.

When magistrates might commit persons who paid their revenue direct to Government, they were to give notice thereof to the collector, that due provision might be made against loss of revenue.

The magistrates were to enforce payment of fines in their capacity of civil judges.

All complaints, with the orders upon them, were to be recorded in English and Persian or Bengalee.

Reports to be made to the Nizamut Adawlut monthly: 1st. Of persons apprehended; 2d. Of casualties and prisoners released; 3d. Of sentences passed by the court of circuit; 4th. Of trials referred to the Nizamut Adawlut; 5th. Of sentences passed by the Nizamut Adawlut on reference; 6th. Of prisoners committed for trial; 7th. Of prisoners under sentence.

The Regulation contained detailed rules for the management and care of gaols, the separation of prisoners according to sex, and the nature of their offences, &c. and for the payment of subsistence money, and other allowances to prisoners, witnesses, &c.

By Regulation XXII. 1793, magistrates were authorized to detain persons of suspicious character, and of habits likely to be dangerous to the community, not having any visible means of subsistence, and to employ them on any public works until they should find security for their good behaviour. Reg. XXII. 1793.

Regulation II.—1796.

Zillah Magistrates to be Justices of Peace.

This Regulation declared the zillah and city magistrates to be justices of the peace, and provided that they should, as such, receive complaints against European British subjects, having first duly qualified by taking the necessary oaths. Reg. II. 1796.

Regulation IX.—1796.

Attendance of Witnesses.

This Regulation contained some additional rules of practice for ensuring the attendance of witnesses before the courts of circuit, especially those on behalf of the prisoners. Reg. IX. 1796.

Regulation XI.—1796.

Resistance of Magistrates' Process.

This Regulation provided for the punishment of persons resisting the process of the magistrates, which extended to the forfeiture of zemindarry rights in the case of proprietors; the sentence of forfeiture, however, was only to be enforced with the sanction of the Governor-general in Council; but all minor punishments, including fine, imprisonment and corporal punishment, were to be confirmed by the Nizamut Adawlut. In cases of persons absconding to evade process, their property was declared liable to attachment, under certain rules. Reg. XI. 1796.

Regulation XIII.—1797.

Duties of Assistants to Magistrates.

This Regulation was enacted to enable magistrates, with a view of expediting business, to employ their assistants in the execution of such part of the duties of zillah magistrates as they might themselves be unable to give due attention to; the assistants, however, before entering on the performance of judicial functions, were required to take an oath of office similar to that of the magistrate, after which they might be empowered to perform any duties with which the magistrates were charged. Reg. XIII. 1797.

Regulation

* The power of imprisonment in such cases was extended, by Reg. VII. 1811, to 6 months.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (A.) Reg. XV. 1806.

Regulation XV.—1806.

Committal of European British Subjects for Trial before the Supreme Court.

This Regulation was enacted to direct the proceedings of the zillah or city magistrates when acting as justices of the peace. It directed, that when magistrates should commit European British subjects, or hold them to bail for trial before the supreme court, they should forward the original depositions to the clerk of the crown, and copies of them for the information of the Governor-general, who, in aggravated cases, would direct their law officers to conduct the prosecution against the accused. If any magistrate in the provinces had not taken the oaths of qualification as a justice of peace, he was to send European British subjects, who should be charged before him with offences, to the magistrates in Calcutta, who would deal with them according to the exigency of the cases.

Regulation IX.—1807.

Modification of the Proceedings of Magistrates.

Reg. IX. 1807.

This Regulation was enacted to alter, in several important particulars, the course of proceeding to be adopted by magistrates on receiving complaints of various offences committed. By previous Regulations, magistrates had been directed, on receiving a charge on oath of any crime or misdemeanor, to issue a warrant for the apprehension of the party accused; by the present Regulation, this course of proceeding was limited to charges of crimes not bailable, or such as should seem to require the immediate apprehension of the accused; in all other cases, the officer executing the warrant might be authorized by the magistrate to take bail from the accused for his appearance before the magistrate.

The Regulation provided that the presence of the accuser might be dispensed with, if he were unable to attend, or if he had not been himself present at the commission of the act complained of. In such cases the magistrate might proceed, on receiving a written plaint, corroborated by the oaths of witnesses.

In cases where magistrates should see reason to distrust the truth of the charge, they might cause a previous local inquiry to be made by the police officers or others, before issuing a warrant or summons against the accused, and their future proceedings were to be regulated by the result of that inquiry.

On receiving a charge against a person for the commission of a bailable offence, the magistrate might, if he saw fit, issue a summons requiring the attendance of the party accused before calling upon him to give bail; if the party summoned should not attend in person or by vakeel, and give bail, if required, the magistrate was to issue a warrant for his apprehension.

In cases of a trivial nature, the officer serving the summons might receive a duly certified compromise between the parties as a sufficient return to the process; but excepting in such trivial cases, no compromise was to be received without the special sanction of the magistrate, nor might the magistrate admit compromises in cases of a heinous nature.

All cases of homicide short of actual murder were declared bailable. In cases of homicide which might be clearly proved before the magistrate to have been accidental or justifiable under the Mahomedan law and the Regulations, the magistrate might release the accused.

In cases not bailable under the Regulations, the court of circuit might, for sufficient cause, authorize the magistrate to receive bail.

The Regulation prescribed forms of bail-bonds and warrants, as well those issuable by magistrates as those by darogahs or zemindars in charge of police, for the apprehension of persons charged with heinous offences, and of process in bailable cases.

Recognizances from prosecutors and witnesses were substituted for the security before required of them, and forms prescribed.

Powers of magistrates to punish offenders were extended to imprisonment for six months, with corporal punishment not exceeding 30 rattans, with a fine not exceeding 200 rupees, commutable to additional imprisonment not exceeding six months; but it was provided that assistant magistrates should not be authorized, when discharging the duty of magistrates, to exercise these additional powers. Assistant magistrates were to be limited to the powers before granted to magistrates, except that they might adjudge both the fine and the imprisonment within the first prescribed limits, and might commute the fine to 15 days' additional imprisonment, making in the whole not more than 30 days.

In referring cases to their assistants, magistrates were recommended, as much as possible, to commit to them only the duty of examination, and to pass judgment themselves on the assistants' proceedings. They were also authorized and required, whenever they should see cause, either on complaint preferred to them or otherwise, to revise the assistants' proceedings, and if necessary, to annul them and pass fresh orders. Magistrates were directed to include in their calendars the cases of persons discharged or punished by their assistants.

The Regulation required further annual reports to be submitted, of cases depending before the magistrates, and of heinous crimes ascertained to have been committed within the zillah during the year; exhibiting the number of persons known to have been concerned in the commission of them, and the number apprehended and convicted, or committed for trial before a court of circuit.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (A.)

Regulation IX.—1808.

Proclamation for Gang Robbers.

By this Regulation, provision was made for the issue of proclamations, offering rewards for the apprehension of leaders of gangs of robbers. Those rules are stated under the head of police. The same Regulation directed that if the person proclaimed should appear within the time limited in the proclamation, the magistrate should proceed against him under the general rules, in regard to the examination of accused persons; but if he should appear or be apprehended after the expiration of the limited time, the magistrate should take evidence of his identity, and after calling upon him to offer any plea, which he might deem proper, why the sentence specified in the proclamation should not be pronounced against him, he was then to commit him to gaol, to appear before the court of circuit, when the witnesses to prove his identity, and the due publication of the proclamation, and the time of the prisoner's apprehension, as well as the witnesses for the prisoner, were to attend. Reg. IX. 1808.

Regulation V.—1809.

Offences committed in Foreign States by British Subjects.

The object of this Regulation was to provide for the trial of native subjects of the British Government, charged with the commission of crimes in places beyond the jurisdiction of the British Government. It directed, that when such persons should be apprehended within its territories, the magistrates should commit or hold them to bail, according to the circumstances of the charge, and immediately report the case for the orders of the Governor-general in Council, who would direct before what court the accused should be brought to trial. Reg. V. 1809.

By Regulation VIII. of 1813, the above rules were declared applicable to natural born subjects of the British Government in India: Natives of India become British subjects by conquest or cession; and natives of foreign Indian states, in the British service. Reg. VIII. 1813.

By Regulation IX. of 1822, they were further extended to all persons other than British born subjects of The King, who had settled or resided more than six months in the Company's territories; and by Regulation VIII. 1829, the above rules were declared applicable, whether the parties should be apprehended within or without the British territories. Reg. IX. 1822. Reg. VIII. 1829.

Regulation XVI.—1810.

Power to appoint Magistrates, not being Civil Judges.

By this Regulation the Governor-general in Council was authorized, 1. To appoint persons to hold the office of magistrate who were not the civil judges of zillahs or cities, and to direct in such cases, whether the judge of the civil court should or should not exercise a concurrent jurisdiction as joint magistrate. 2dly. To invest the magistrate of any city or zillah with a general concurrent authority as joint magistrate in any contiguous or other jurisdiction, or in any part thereof. 3dly. To appoint an "assistant magistrate" in any city or zillah, who should be required to take the same oath of office as a magistrate. Reg. XVI. 1810.

The joint and assistant magistrates were declared to be invested with the general powers of magistrates, subject to such special directions as should be issued to them by the Government on their appointment. Assistant magistrates were to be considered subordinate to the magistrates of their respective zillahs in the general discharge of their official duties, in as far as might be consistent with the purposes of this Regulation: but no appeal was to lie to the magistrate from the sentence of an assistant magistrate, nor from his orders for committing prisoners or holding them to bail.

Regulation I.—1811.

Prevention and Punishment of Housebreaking.

This Regulation (for the preamble to which see under the head "Administration of Criminal Justice") enacted, that any person on whom the instrument known to be generally used by native housebreakers should be found, might be sentenced by the magistrate to work on the roads, until he should give security for his good conduct. It further enacted, that persons concerned in housebreaking or gang robbery, not attended with murder or any aggravating act of personal violence, might receive a pardon, upon their giving such information to the magistrates as should lead to the apprehension of the principal receiver or receivers; and magistrates were directed to recommend to the Nizamut Adawlut cases in which they were of opinion that such conditional pardons should be offered to accessaries, to be confirmed if the information given should lead to the apprehension and conviction of any principal receiver; a pardon might also be given to any receiver who might cause the apprehension and conviction either of a vender or of a principal in the robbery. Reg. I. 1811.

Regulation III.—1812.

Provision for checking Litigious and Vexatious Complaints.

This Regulation embraced a variety of subjects, chiefly connected with the police. Its provisions, as far as regarded the duties of the magistrates, had for their object the checking of litigious complaints, and provided that in cases of adultery, &c. as well as in cases of petty Reg. III. 1812.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (A.)

petty offences, the complainant, before any witnesses were summoned on his behalf, should deposit such sum as the magistrate should consider sufficient for the maintenance of those witnesses for one month; and it having been found in practice, that complaints of the above description had ordinarily proved unfounded, misrepresented or greatly exaggerated, the magistrates were directed not to issue process thereon, without first satisfying themselves by examination of the prosecutor, that there appeared sufficient grounds for proceeding against the accused; and such inquiries were on no account to be committed to darogahs.

(*See* Reg. IX. 1807.) It appearing that much inconvenience had been experienced from the indiscriminate permission allowed to agents to conduct criminal prosecutions, it was provided that such agency should not be permitted, unless satisfactory reasons were assigned and recorded on the magistrates' proceedings, why the complainant should not carry on the prosecution in person.

Regulation XIV.—1816.

Superintendence of Gaols.

Reg. XIV. 1816. This Regulation empowered magistrates more effectually to preserve subordination and good conduct in the gaols, by punishing contumacious and refractory behaviour; the exercise of this power was subject to the general superintendence of the court of circuit. Magistrates were further authorized to reward prisoners for any meritorious act, such as preventing the escape of other prisoners, &c.

Regulation VI.—1818.

Rules regarding Cases not ready for Trial.

Reg. VI. 1818. By this Regulation, magistrates were required to lay before the judge of circuit at the periodical gaol deliveries, a calendar exhibiting the names and offences of persons whose cases were not in a state of sufficient forwardness to be brought before the court then sitting, or to be disposed of by their own orders; and the magistrates were to be guided in regard to such cases by the orders they should receive from the court of circuit.

Regulation VIII.—1818.

Security for good Conduct.

Reg. VIII. 1818 *(*See* head D.)

It had been provided by *Regulation LIII. 1803, that in cases of strong suspicion, or upon proof of notorious bad character, the judge of circuit might direct the magistrate to detain a prisoner in custody, although acquitted of the crime charged, until he should give sufficient security for his good behaviour and appearance when required. The present Regulation was enacted for the purpose of defining more exactly the power to be exercised in the requisition of security for good behaviour, as well by the zillah and city magistrates, as by the courts of circuit and Nizamut Adawlut, and to provide for a revision of such cases from time to time as occasion might require.

Security was not to be required of prisoners who had been acquitted, except on proof of notoriously bad character. Whenever such security should be required, the order was to specify distinctly the amount of the security, the number of the sureties, and the period of their responsibility; and when prisoners might be committed on account of failure to furnish such security, the period of their confinement was to be distinctly stated; except in the cases of notorious robbers, of so dangerous a character, as to render their release without security evidently unsafe. Magistrates were empowered to release prisoners confined under requisition of security for good behaviour by themselves or by any other magistrates, whenever they might consider such release to be free from hazard. In regard to prisoners committed by the court of circuit or Nizamut Adawlut, magistrates were to report to those authorities when the release of such prisoners might be unattended with danger. Sureties for the good behaviour of prisoners might discharge themselves within the period of their suretiship, by delivering up the prisoners. It was further directed, that the requisition of security for good behaviour should, in all safe cases, fix a time, in no case exceeding twelve months, at the end of which the prisoner should be released; but if his release should then be deemed unsafe, the magistrate was to require specific security for his good behaviour; and on failure of its being given, was to submit the case to the court of circuit, who might order the prisoner to be detained, but for not longer than three years, except in the case of notorious gang* robbers, who might be continued in confinement for want of security, subject to a triennial renewal of the order of detention by the court of circuit, after having had the prisoner brought up before them.

The period for which sureties were to be responsible was directed never to exceed three years; but the same parties might again become sureties for other three years. Whenever sureties might deliver up prisoners to be detained, the case was to be brought before the court of circuit at their ensuing session.

The foregoing rules were declared to have been enacted with the view of reconciling the safety of the community, with a due regard to the rights of individuals. It was further stated in the Regulation, that certain prisoners were then in confinement under requisitions for security made in conformity with previous Regulations, and that such prisoners required and

* This provision was extended to all notorious robbers of desperate or dangerous character by Regulation III. of 1819.

and were entitled to relief. To that end, the Governor-general in Council was authorized to nominate officers of experience in the Judicial department, who should revise such cases upon the principles of the foregoing rules: the revision was to include cases of persons confined on strong suspicion of having committed offences of which they had been acquitted, though there was no proof of notoriously bad character; of persons imprisoned for an indefinite time for want of security; or for a definite time, if the period of suretyship and the amount of security had not been distinctly specified in the order, provided that the unexpired period of detention exceeded three years; all prisoners so detained were to be discharged, excepting persons of notorious general bad character, whose release might be dangerous to the community. The officers to be appointed for this special duty were authorized to pass final orders on the several cases, according to sound and humane discretion, and in general conformity with this Regulation, and they were to submit a report of their proceedings to the Nizamut Adawlut.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (A.)

Regulation XII.—1818.

Extension of the Power of Magistrates to punish.

Reg. XII. 1818.

This Regulation conferred on magistrates the power of punishing cases, not greatly aggravated, of housebreaking and of receiving stolen goods. The objects in view in granting this power were,—first, to relieve the judges of circuit from great pressure of business; secondly, to diminish the inconvenience suffered by prosecutors and witnesses, in attending successively before the magistrates and the court of circuit, and by prisoners from prolonged detention before trial; thirdly, to provide thereby for the more prompt and effectual administration of criminal justice in such cases. The offences for which the magistrates were empowered to inflict punishment were not to include such as came under the description of robbery by open violence, accompanied by the commission or attempt to murder, or aggravated personal violence, or where the accused were persons before convicted, or of notoriously bad character, or persons employed in the police, where the value of the property stolen might exceed 100 rupees.

The punishment which magistrates might award under this Regulation was extended to two years' imprisonment and thirty stripes.

Similar power, under the like restrictions, was granted to the magistrate in cases of theft. If the property did not exceed in value 50 rupees, he might refer the case to be tried by his assistant.

Certain provisions of Regulation I. 1811, prescribing fourteen years' imprisonment as the punishment of persons receiving goods, knowing them to have been obtained by gang robbery, were rescinded; in lieu thereof, the present Regulation provided, that aggravated cases only should be remitted for trial to the court of circuit; magistrates were empowered to convict in ordinary cases, and to sentence to imprisonment for two years with thirty stripes. It was also provided, that receivers of stolen goods might be punished, though the thieves should not have been brought to justice, provided there were sufficient proof of the robbery having been committed.

Power was given to magistrates to sentence convicts or prisoners effecting their escape to thirty stripes and to additional imprisonment for two years. Prisoners under confinement for examination, and effecting their escape, might be imprisoned for six months; but if the escape were attended with aggravation or violence, the prisoner was to be committed for trial by the court of circuit. A separate calendar was to be submitted by the magistrate to the court of circuit of all persons sentenced to imprisonment for a longer period than six months, and the court of circuit might revise such sentences.

Regulation VII.—1819.

Powers of Magistrates to punish particular Offences.

This Regulation provided a remedy for three different evils;—

Reg. VII. 1819.

First.—The seduction of females from their houses and families, effected chiefly by women for the purpose of rendering them prostitutes or concubines, a practice stated to prevail in cities and large towns. The Regulation authorized magistrates to punish persons convicted before them, of seducing a married woman living under the protection of her husband, or an unmarried female under the age of fifteen, living with her parents or guardians, by fine and imprisonment, within the limits of their powers in respect of such punishment.

Second.—The abandonment by men of their wives and families; the magistrate might require such offenders to make suitable provision on pain of imprisonment, and might also order a proper maintenance to the mothers of illegitimate children whilst in a state of pregnancy, or having the care of an infant child.

Third.—The failure of workmen or servants to complete their engagements; such failure might be punished by imprisonment for one month, and the contract might be ordered to be fulfilled on pain of further imprisonment, not exceeding two months; the same principle was declared applicable to domestic servants who should quit their service without completing the engagement they had made, and to monthly servants quitting their masters without a fortnight's notice; masters were likewise to be required to complete their engagements, and give similar notice to their hired servants.

Regulation III.—1820.

Pressing Natives as Coolies or Bearers forbidden and declared penal.

Reg. III. 1820.

It having been found that the power vested in magistrates by Regulation XI. 1806, of assisting to procure carriers of burdens to attend troops or individuals on march through their

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(2.) Regulations for the Administration of Criminal Justice. (A.)

their districts, had encouraged the forcible pressing of inhabitants of towns and villages to carry baggage from stage to stage, it became desirable entirely to suppress so injurious a practice. This Regulation, therefore, positively prohibited all such pressing, and required magistrates to investigate all complaints on this subject that should be brought before them, and to punish, according to their discretion, persons convicted of that offence.

Regulation IV.—1820.

Execution of Sentences of Courts Martial.

Reg. IV. 1820.

Magistrates were authorized to give effect to the sentences of courts martial, adjudging persons under their jurisdiction to imprisonment with hard labour among the convicts of the civil power. It was further provided, that in all cases of theft, in which the value of the property stolen should exceed 300 rupees, the magistrate should commit the prisoner for trial to the court of circuit.

Regulation III.—1821.

Powers of Assistants to Magistrates.

Reg. III. 1821.

The object of this Regulation was to afford more efficient aid to the judicial authorities in disposing of the mass of public business pressing upon them. It enacted, that whenever the accumulation of judicial business in a zillah might be such as the magistrate could not discharge with sufficient despatch, the Governor-general in Council might invest the "assistant to the magistrate" with special powers to try cases referred to him, and to punish the offenders, on conviction, to an extent not exceeding six months' imprisonment, with thirty strokes of a rattan, or a fine not exceeding 200 rupees, commutable to further imprisonment for six months. The magistrates were authorized to refer for trial to the Hindoo or Mahomedan law officers cases of petty offences unattended with aggravating circumstances, and the law officers might sentence the parties, on conviction, to imprisonment not exceeding fifteen days, and a fine of 50 rupees, commutable to a further imprisonment of fifteen days. For petty thefts, the law officers might sentence to thirty rattans and one month's imprisonment. Appeals might be received by magistrates from the orders passed by their assistants, and also from orders of magistrates by the courts of circuit, if preferred within one month from the date of the orders appealed against.

Regulation IV.—1821.

Union of the Powers of Collectors and Magistrates.

Reg. IV. 1821.

By this Regulation the Government were empowered, whenever it might appear expedient, to vest collectors of the revenue with the powers of magistrates, and to intrust magistrates with the power of collecting the revenue. No reason is stated in the preamble for the enactment of this Regulation, except that such measures might be expedient.

Regulation I.—1822.

Affrays.

Reg. I. 1822.

By Regulation XLIX. of 1793, the zillah judges were required to take cognizance, in their civil capacity, of affrays committed in taking or retaining possession of disputed crops, boundaries, &c., and to pass a summary judgment on the right to immediate possession. It was stated in the preamble to that Regulation that such affrays were generally attended with bloodshed, and not unfrequently with loss of lives.

The present enactment authorized the magistrates to try such charges, and to punish the offenders to the extent of their power of punishment under the general regulations. Aggravated cases were to be referred to the provincial court.

Reg. VIII. 1828.

By Regulation VIII. of 1828, for the more effectual punishing of affrays unattended with aggravating circumstances, power was given to the magistrates to punish the offenders by imprisonment, with or without labour, for a period not exceeding one year, and a fine not exceeding 200 rupees, commutable to a further period of imprisonment not exceeding one year.

Regulation VIII.—1822.

Prescribing the Place of Trial of Criminals.

Reg. VIII. 1822.

The preamble to this Regulation set forth that the Regulations had nowhere specifically directed, although it had become an established principle of usage, that offenders should be tried in the court within the local jurisdiction of which the offence was committed. To remedy this deficiency, as well as to provide for exceptions to the application of the rule, this Regulation enacted that offenders should be brought to trial at the sessions held for the zillah in which the crime had been perpetrated; but as circumstances might arise which might render the trial in a different district more desirable, safe or expeditious, it was declared competent to the Governor-general in Council, or to the Nizamut Adawlut, to remove the trial to a different zillah whenever it should appear that such measure would promote the ends of justice, or, without hindrance thereto, would tend to the general convenience of parties and witnesses.

REGULATION VI.—1824.

Extension of Powers of Magistrates to punish.

THE principal object of this Regulation was to enable magistrates, in the cases of persons charged before them with the commission of two several burglaries or aggravated thefts, each of which was punishable under the provisions of Regulation XII. of 1818, by two years' imprisonment and 30 stripes, to take cognizance of the double charge, and on conviction, to sentence the two offences jointly to the measure of punishment which they were authorized to inflict under that enactment for a single offence, with power, however, if the magistrate should deem that punishment insufficient, to commit the offender for trial before the court of circuit. Reg. VI. 1824.

The powers of magistrates were extended by Regulation VI. 1829, to the punishment of persons guilty of two or more petty thefts, by inflicting upon them punishment not exceeding the measure above stated, without reference to the court of circuit, except when a greater punishment than the above might seem called for. Reg. VI. 1829.

REGULATION X.—1824.

Conditional Pardons.

THIS Regulation authorized magistrates and superintendents of police to tender pardon to persons not being principals, supposed to have been directly or indirectly concerned in cases of murder, gang robbery, highway robbery, coining and forgery, as well as in cases of burglary, and theft attended with circumstances of aggravation. Magistrates were to report their opinions in such cases to the superintendents of police, who would sanction the offer of pardon, unless there should appear no prospect of obtaining by that means any other evidence than the deposition of an accomplice or an accessary, in which case they were to refuse their sanction. Reg. X. 1824.

REGULATION XV.—1824.

Primary Cognizance of Disputes regarding Possession of Land, Crops or Water, vested in Magistrates.

IT had been provided by Regulation XLIX. 1793, that in cases of alleged dispossession from land or crops, the complaint should in the first instance be preferred to the zillah judge, who would, after a summary inquiry, replace the ousted party in possession, leaving his opponent to establish his right by a civil suit. (*See* that Regulation, and also Regulation VI. 1813, under the head Zillah Courts.) The preamble to this Regulation stated, that it appeared desirable, for the better maintenance of the public tranquillity, and with a view to prevent breaches of the peace in cases of disputed boundaries or contested claims to the possession of lands, crops, wells, water-courses and other premises, that the summary investigation in such cases should, under certain circumstances, be conducted in the criminal court, leaving the parties, if dissatisfied with the award of the magistrate, to institute regular suits in the civil court for the final determination of their rights. The Regulation accordingly enacted, that whenever it should appear to a magistrate that disputes concerning the right to possession of land, or the right to water for the purposes of irrigation, would be likely to terminate in a breach of the peace, if not speedily adjusted, the magistrate might require the attendance of the parties, and proceed to determine summarily the right to possession, until his award should be altered by the decision of a regular suit in the civil court. In the event of a summary suit between the parties being at the time pending in the civil court, the judge or registrar was directed to forward his proceedings therein to the magistrate for his consideration. The summary process authorized by this Regulation being intended only to be subsidiary to a regular suit, no appeal was to lie from the magistrate's judgment, except on the ground that the case was one not properly coming within the meaning of the Regulation. Reg. XV. 1824.

By Regulation VII. 1822, special powers having been granted to collectors while engaged in the investigation authorized by that Regulation, it was enacted by Regulation IV. 1828, that during the time in which such powers should be exercised by the revenue officers in any district, the powers vested by Regulation XV. 1824 in magistrates should be suspended, until the revenue settlement of the district, being made under the rules of Regulation VII. 1822, should have been finally confirmed by Government. (*See* Revenue, Special.) Reg. IV. 1828.

REGULATION IV.—1825.

Recognizances to keep the Peace.

THIS Regulation defined the powers to be exercised by the criminal courts in taking recognizances for keeping the peace, with or without the security of persons to be bound on the prisoner's behalf; magistrates were authorized to take recognizances for one year, the courts of circuit and Nizamut Adawlut for three years; if security were also to be taken, the amount of the security bond was not to be excessive, and the length of imprisonment which the offender should be adjudged to suffer, in the event of his not giving security, was not to exceed the periods above mentioned. Magistrates were also authorized to require recognizances for good behaviour from persons not convicted of any specific offence, whenever it might appear necessary for the preservation of the peace; the penalty in such recognizances not to exceed 200 rupees, and the proceedings of the magistrate regarding them to be open to the revision of the court of circuit. Reg. IV. 1825.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (A.)

Reg. I. 1828.

REGULATION I.—1828.

Allepore Gaol—Transportation.

IT appearing that some of the convicts under sentence of imprisonment for life in Allepore gaol were desirous of having their sentences commuted to transportation for life, the present Regulation authorized the Government, on the report of the officer in charge of the gaol, and on the application of a prisoner, signed by himself and duly attested, to commute such sentence of perpetual imprisonment to transportation for life to any of the British settlements in Asia.

REGULATION VIII.—1830.

Grounds of Committal for Trial.

Reg. VIII. 1830.

THE Preamble declared, that there was reason to believe, that owing to the *ex parte* nature of the investigations which by the Regulations the magistrates were required to make previously to committing a prisoner for trial, or requiring him to give bail for his appearance at the sessions, many individuals had been exposed to the hardships of imprisonment, who, if they had been permitted to adduce evidence in their exculpation, might have immediately established their innocence; this Regulation therefore empowered magistrates, in their preliminary investigations, to make full inquiry into every circumstance likely to lead to the ascertainment of truth, and to allow the prisoner to adduce evidence on his own behalf; and in the event of there not being a reasonable probability of conviction under a committal for trial before the court of circuit, then to release the person charged.

PART I.—Criminal Judicature—GENERAL—*continued.*

(B.)—CONSTITUTION and JURISDICTION of the COURTS of CIRCUIT and COMMISSIONERS of CIRCUIT.

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(B.)

CONSTITUTION and JURISDICTION of the COURTS of CIRCUIT and COMMISSIONERS of CIRCUIT.

REGULATION IX.—1793.

Constitution and Jurisdiction of the Courts of Circuit.

Reg. IX. 1793 (B.)

THIS Regulation embodied the rules for the administration of criminal justice promulgated in 1790, as stated in the Preamble, for which see the head "Magistrates."

It declared that the judges of each provincial court of appeal should exercise the powers of a criminal court, under the title of Court of Circuit; having the same extent of local jurisdiction as in their civil capacity.

The

The registrar and other ministerial officers, and the law officers of the provincial courts, were to be the ministerial and law officers of the courts of circuit.

The judges were to hold two circuits annually for gaol delivery, beginning respectively on the 1st April and the 1st November, to include all the magistrates' stations within each circuit, except the station where the provincial courts were fixed. The judges on circuit were to remain at each station until all prisoners committed or held to bail should have been tried.

The judges were to form two courts to be on circuit at the same time, the two senior judges delivering the gaol at one zillah, and the two junior judges at another zillah within the province. On the return of the judges to the provincial court stations, they were to deliver the gaols at those places.

The courts of circuit were to report to the Nizamut Adawlut instances of neglect or misconduct on the part of the magistrates or the law officers.

In cases of difference of opinion the majority of judges were to decide, if only two should be present, the senior judge was to have the casting voice.

The judges were to submit to the Nizamut Adawlut, as occasion might require, any rules that should appear to them calculated to improve the administration of criminal justice or of the police.

Regulation VII.—1794.

Turn of Judges to go on Circuits and hold Sessions.

This Regulation was enacted to remedy two inconveniences which had been found to arise from the arrangements prescribed in Regulation IX. 1793, for the delivery of gaols. By that enactment the three judges were all on circuit at the same time. The present Regulation provided that the two courts on circuit should each be held before one judge, and that one judge should always remain at the sudder station, to carry on the routine duties of the court, to receive petitions, and to do all acts other than deciding cases; the second inconvenience arose from the rule, that on return from circuit the three judges should sit together in the criminal court, for the trial of prisoners in the gaol of the zillah in which the provincial court was stationed; the present Regulation directed that the judge who should first return from circuit should deliver the gaol of that zillah. By these measures it was expected that the judges would be enabled to assign a greater portion of their time to the civil business of their courts, which had been found to be seriously impeded by the previous arrangement. Reg. VII. 1794.

Regulation III.—1797.

Succession and Number of Circuits.

Under the operation of the foregoing rule, so great a portion of the judges' time was occupied on circuit, that it rarely happened that two of them remained sufficiently long at the sudder station to decide the appeal causes, and the duties of the civil courts had fallen greatly in arrear. To remedy this evil, the present Regulation provided that one judge only should proceed on circuit, and that two should always remain at the sudder station; and that the senior judge of the court should never go on circuit. Reg. III. 1797.

Regulation IV.—1797.

Circuit Reports to be made by the Judges, on their return to the Chief Station.

This Regulation, which related generally to the administration of the criminal law, contained a direction that each judge, on his return from his circuit, should transmit to the Sudder Nizamut Adawlut a report, comprising such observations as they might have made during the circuit, regarding the effect of the system of criminal administration in the prevention and punishment of crime, the state of the gaols, treatment and employment of prisoners, and such other matters as they might deem of importance. Reg. IV. 1797.

Regulation I.—1806.

Order of Circuits and Session.

Most of the provisions of this Regulation related to alterations in the jurisdictions of certain courts, and in the times when the sessions should be held: but it also provided, with a view of expediting the general administration of criminal justice, that when the number of persons for trial at one station should be very small, they might be brought to trial before the court sitting at an adjoining station; and likewise, that the senior judges of the provincial courts should take their turn of circuit, in common with the other judges. Reg. I. 1806.

This arrangement was altered by the provisions of Regulation V. 1814, which increased the number of judges of each provincial court to four; and directed that the senior judge should remain at the sudder station to transact the ordinary business of the civil court.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (B.)

Reg. IX. 1807.

REGULATION IX.—1807.

Powers of Courts of Circuit.

BY this Regulation, two or more judges of a court of circuit, or of the Nizamut Adawlut,* were declared competent to call upon the magistrate for his proceedings, or those of his assistant, upon petitions presented to them, whenever it might appear necessary; and to pass such orders thereon as they might deem proper and consistent with the Regulations.

REGULATION IX.—1808.

Punishment of proclaimed Dacoits.

Reg. IX. 1808.

BY this Regulation (for which see Police) it was declared, that when a gang robber, who had been committed by the magistrate for not having come in and surrendered himself before the expiration of the time limited in the proclamation, should be brought before the court: the judge, if he were satisfied of the identity of the prisoner, and of his contumacy in not appearing, should sentence him to imprisonment and transportation for life, forwarding the trials in all such cases to the Nizamut Adawlut, who would pass their final judgment on the case.

A conviction under this Regulation was not to exempt the prisoner from trial on any specific charge, which might render him liable to an equal or greater punishment under the Regulations.

REGULATION I.—1810.

Futwas of Law Officers dispensed with occasionally.

Reg. I. 1810.

BY this Regulation, the grounds of which are not stated in the Preamble, it was declared competent to the Governor-general in Council to dispense with the attendance and futwa of the law officers of the courts of circuit, whenever he should deem it expedient; and an official communication of an order to that effect by the secretary to Government in the Judicial department, should be considered sufficient authority by the court to whom it should be addressed to proceed without them. In such cases, no sentence was to be passed by the court of circuit, but the proceedings were to be transmitted for the final sentence of the Nizamut Adawlut. Any questions of Mahomedan law arising upon the proceeding were to be referred to the Nizamut Adawlut.

REGULATION V.—1814.

Constitution of Courts of Circuit.

Reg. V. 1814.

THIS Regulation, which increased the number of judges of the courts of appeal and circuit to four, directed that the senior judge should not proceed on circuit, but remain to perform the duties of his office, civil and criminal, at the sudder station.

REGULATION XXV.—1814.

Powers of single Judges of Courts of Circuit.

Reg. XXV. 1814.

THE object of this Regulation was to define the powers of single judges of the provincial courts, both in their civil and criminal jurisdiction. As regards the latter, it authorized a single judge, when sitting at the sudder station, to call for the proceedings of magistrates in cases requiring revision; to execute orders received from the Nizamut Adawlut; and to confirm the orders of magistrates, or of judges on circuit, when referred to the court conjointly. If the judge at the sudder station should concur in opinion with the officer making the reference, he might confirm the proceeding; but if he differed from the judge making the reference, he should record his opinion, and the case should lie over until the attendance of another judge. The same principle was declared applicable to proceedings before a single judge of Nizamut Adawlut.

REGULATION VI.—1818.

Powers of the Courts of Circuit over Magistrates.

Reg. VI. 1818.

BY this Regulation (the magistrates having been directed to lay before the judge of circuit at the periodical gaol deliveries a calendar, exhibiting the names and offences of persons whose cases were not in a state of sufficient forwardness to be brought before the court then sitting, or to be disposed by their own orders), the judges of circuit were authorized to call for the magistrates' proceedings on any case which might appear from inspection of the calendar to require an early decision; and they were empowered to direct the magistrate, in cases determinable by himself, to pass a final order thereon; and in cases determinable before the court of circuit, might order their being immediately brought forward in a supplemental calendar.

The

* By Regulation IX. 1831, it was enacted that in all matters of a miscellaneous nature, not being criminal trials, this authority should be exercised by the commissioners of circuit.

The object of this rule was declared to be, the preventing unnecessary confinement of prisoners under charge. Judges of circuit were required to use discretion in the exercise of the authority. It was declared not competent to them to reverse the proceedings of a magistrate for bringing a person to trial before the court of circuit; but two judges of circuit concurring, might require a magistrate to take bail for a person committed for trial; and they might likewise, for sufficient cause, admit of the appearance of a vakeel, or representative, instead of the personal attendance of the accused.

Regulation IV.—1820.

Powers of the Courts of Circuit over Magistrates.

This Regulation authorized the courts of circuit to revise the proceedings of magistrates sentencing to more than six months' imprisonment, though no petition should have been presented on the subject, if on perusal only of the magistrates' calendar of such cases, such revisal appeared called for. Reg. IV. 1820.

Regulation IV.—1823.

Futwas—Judges of Circuit.

This Regulation declared that the futwa of a law officer of a zillah, or of any other court, called in to act in the absence of the law officer of the circuit court, should be deemed legal and valid. It also provided, that a magistrate who had committed a prisoner for trial should not, on his promotion to the circuit court, preside at the trial of a prisoner whom he had so committed. Reg. IV. 1823.

Regulation XVI.—1825.

Increase of Powers of Courts of Circuit.

The object of this Regulation was to afford further relief to the Nizamut Adawlut, by increasing the powers of the courts of circuit. It authorized those courts to pass sentence in all cases of robbery by open violence and gang robbery, unless attended with murder or corporal injury endangering life; such sentence to extend to 39 strokes and 14 years' banishment; provided that if the robbery had been committed by a gang of three or more armed robbers, no less a sentence* than that above stated should be passed. If a mitigation should appear desirable in any particular instance of such cases, reference should be made to the Nizamut Adawlut. Reg. XVI. 1825.

Regulation I.—1829.

Commissioners of Circuit established.

The Preamble to this Regulation is as follows:—"The system in operation for superintending the magistracy and the police, and for controlling and directing the executive revenue officers, who in several cases are also magistrates, has been found to be defective. The provincial courts of appeal and circuit, as now constituted, partly from the extent of country placed under their authority, and partly from their having to discharge the duties of both civil and criminal tribunals, have in many cases failed to afford that prompt administration of justice which it is the duty of Government to secure to the people. The gaol deliveries have been, in some instances, delayed beyond the term prescribed by law, especially in the divisions of Bareilly, which comprise thirteen stations, at which gaol deliveries have to be held, besides the joint magistracies of Belah and Sirpoorah; and a great arrear of cases under appeal has accrued in all the courts, to the manifest injury of many individuals, and to the encouragement of litigation and crime. The judges of circuit, when employed singly in the districts under their authority, do not possess sufficient powers, nor have they the opportunity of acquiring sufficient local knowledge to enable them adequately to control the police or protect the people. The great extent of country under each of the Boards of Revenue has similarly operated to impede them in the execution of the duties which belong to them, as tribunals for the determination of all questions relative to the assessment of lands under settlement, and for the judicial decision of many other important cases, as the general guardians of the fiscal interests of the state, as directors and superintendents over the executive officers, and as the confidential advisers of Government. For the correction of the above defects, it has appeared to be expedient and necessary to place the magistracy and police, and the collectors and other executive revenue officers, under the superintendence and control of commissioners of revenue and circuit, each vested with the charge of such a moderate tract of country as may enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions; to confide to the said commissioners the powers now vested in the courts of circuit, together with those that belong to the Board of Revenue, to be exercised, with the modifications hereinafter provided, the former under the authority of the Nizamut Adawlut, and the latter under the instructions and control of a Sudder, or Chief Board of Revenue; and altogether to disjoin the functions of the courts of circuit from those of the judges of appeal." Reg. I. 1829.

In conformity with the views and purposes above stated, the following rules were enacted, to be in force from the 1st March 1829.

The

* This was rescinded by Reg. I. 1831.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (B.)

The provinces were formed into 20 districts; to each of which a Commissioner of Revenue and Circuit was appointed. The commissioners were vested with the authority of judges of circuit, and were to hold sessions at the stations of the several magistrates not less than twice a year in each district; the Mahomedan law officers of any zillah within the division or of a provincial court were to attend the sessions. The provincial courts were relieved from the duties of criminal courts.

Reg. I. of 1830. The remainder of the Regulation relates to the arrangement of the local divisions and to the revenue authority to be exercised by the commissioners.

Reg. IV. 1830. It was declared by Regulation IV 1830, that the government might appoint any competent person not being a law officer of any zillah or provincial courts, to act as law officer, and that trials held with such assistance should be considered legal.

Reg. II. 1831. Certain trials having been held by the commissioners at the sudder stations, and the legality of such trials having been doubted, Regulation II. of 1831 was passed to declare them valid.

Regulation II.—1829.

Appeal to Commissioners of Circuit from Magistrates.

Reg. II. 1829. By this Regulation an appeal was declared to be to the commissioners of circuit from the decision of any magistrate on a summary inquiry, under Regulation XV. of 1824, on questions o dispossession of lands, crops, &c., if such appeal was preferred in one month from the date of such decision.

Regulation VII.—1829.

Reports.

Reg. VII. 1829. This Regulation rescinded all the rules previously enacted regarding the forms of reports from the inferior judicatories, and the periods at which they were to be sent; and it empowered the Nizamut Adawlut to issue such instructions from time to time on those points as it should deem fit.

Regulation VII.—1831.

Appointment of Zillah Judges to hold Sessions.

Reg. VII. 1831. The objects of this Regulation were declared to be, to enable the Commissioners of Revenue and Circuit to devote a sufficient portion of their time to the discharge of their revenue duties, and to provide for the more speedy trial of persons committed for criminal offences. The Regulation with this view enacted, that whenever the pressure of business devolving on a Commissioner of Revenue and Circuit should render it advisable, it should be competent to the Governor-general in Council, by an order in council, to invest the judges of the zillahs or cities within those divisions with full powers to conduct the duties of the sessions. The session judges so appointed were to try all persons committed by the magistrates of their respective divisions as soon as convenient, and gaol deliveries for each district were to be held once at least in every month; but they were not to exercise authority over the magistrates nor to interfere in matters of police. All appeals from the acts or orders of magistrates were to continue to be made as before to the commissioners. Judges of session were, however, empowered to make any requisitions to the magistrates which might be necessary to the due conduct of any pending trial; and if such requisition were disobeyed, the session judge might make a representation thereof to the Nizamut Adawlut, as also of any misconduct of a police officer that might come to his knowledge.

The Regulation contained a few further rules to determine the relative jurisdictions and authorities of commissioners of circuit, zillah judges of sessions, and local magistrates.

PART I.—Criminal Judicature—GENERAL—*continued.*

(C.)—CONSTITUTION and JURISDICTION of the SUDDER NIZAMUT ADAWLUT.

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(C.)

CONSTITUTION and JURISDICTION of the SUDDER NIZAMUT ADAWLUT.

REGULATION IX.—1793.

Constitution of the Sudder Nizamut Adawlut.

FOR the Preamble to this Regulation, see the head "Magistrates."

As regarded the chief court of criminal justice, the Regulation enacted, that the Sudder Nizamut Adawlut should consist of the Governor-general and the members of the supreme council; and should be assisted by the head kazee and two muftis. The court was to have a registrar and such assistance as might be required, and all those persons were to take oaths of office. The Sudder Nizamut Adawlut was empowered to take cognizance of all matters relating to criminal justice and police; and was to propose Regulations for the consideration of Government, to be enacted if approved. The court was to exercise all the powers with which it had been invested when superintended by the late Naib Nazim. By Regulation IX. 1807, the court might call for the proceedings of any circuit court, or of any officer of criminal justice. And, by Regulation XIV. 1816, the gaol at Allepore, in the vicinity of Calcutta, which was the general receptacle for convicts under sentence of perpetual imprisonment and transportation, and of banishment from other zillahs, was placed under the special superintendence of the Nizamut Adawlut. Reg. IX. 1793. Reg. IX. 1807. Reg. XIV. 1816.

By Regulation II. 1801, it was enacted that the court of Sudder and Nizamut Adawlut should consist of three judges, of whom the chief should be a civil member of the council; the other judges to be selected from the body of the civil service. The Nizamut Adawlut being the chief court of judicial administration, sitting in its capacity of a criminal court, the variation in its constitution under different Regulations will be found in the abstract of the civil Regulations, under the title Sudder Dewanny Adawlut. See Regulation X. of 1805, XV. 1807, XII. 1811, XXV. 1814.

REGULATION IX. 1831.

Powers of Single Judges in the Nizamut Adawlut.

WITH a view to the more expeditious despatch of the business of the Nizamut, it was provided by this Regulation that a single judge should possess authority to do the following acts. He might revise the proceedings of a trial by an inferior court, and reverse or alter the sentence, provided such alteration were favourable to the prisoner. In cases of referred trials, if a single judge concurred in opinion with the commissioner of circuit or session judge who referred the trial, he might pass a final decision thereon, except in cases involving capital punishment, in which the concurrent opinion of two judges of the Nizamut Adawlut was to be considered necessary; if the judge referring the trial was for acquittal, or otherwise in favour of the prisoner, the single judge of the Sudder Nizamut Adawlut was not to be competent to decide against the prisoner. It was declared competent to the Nizamut Adawlut to mitigate any sentence passed by a commissioner if it should appear too severe, or to annul any sentence so passed, which should appear to them to be in opposition to any law or regulation in force. Reg. IX. 1831.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (D.)

PART I.—Criminal Judicature—GENERAL—*continued.*

(D.)—GENERAL RULES for the ADMINISTRATION of CRIMINAL JUSTICE, and MODIFICATIONS of the MAHOMEDAN LAW.

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(D.)

ADMINISTRATION of CRIMINAL JUSTICE, and MODIFICATIONS of the MAHOMEDAN LAW.

REGULATION IX.—1793.

Rules for the Trial of Criminals.

Reg. IX. 1793.

THIS Regulation promulgated in the prescribed form the rules which had been framed and published in 1790, relative to the constitution of the courts of justice and the duties of magistrates, which will be found under their proper heads. The preamble will be found abstracted under the head "Magistrates." The Regulation prescribed the following rules regarding the general administration of the criminal law.

On the trial of a prisoner before the court of circuit, the Mahomedan law officers were to be present; and, at its conclusion, they were to write at the end of the record of proceedings a futwa or declaration of the law applicable to the case. The court were to consider this declaration, and, if it appeared to them to be consonant to natural justice and conformable to the Mahomedan law, they were to pass sentence in the terms of the futwa, and to issue their warrant for its immediate execution, provided it did not condemn the prisoner to death, or to imprisonment for life; in either of which cases the whole of the proceedings, with English translations, were to be tra smitted to the Nizamut Adawlut for their final sentence.

On

On trials for murder, the Mahomedan law officers of the courts of circuit, and of the Nizamut Adawlut, were to deliver their futwa according to the doctrines of Yusuf and Mahomed.

In modification of the Mahomedan law, it was declared that mutilation should not be inflicted, but that a sentence to lose two limbs should be commuted to imprisonment with hard labour for fourteen years, and a sentence to lose one limb be commuted to the like punishment for seven years. Mutilation.

On a conviction of murder, if the heir of the deceased should demand retaliation, the court of circuit were to pass sentence of death, and then refer the trial to the Nizamut Adawlut; but if the heir only demand the price of blood, the reference was to be made without passing sentence. In all cases where the court of circuit should disapprove of the proceedings or of the futwa, they were to transmit the proceedings with a special separate letter for the final decision of the Nizamut Adawlut. The court of circuit were to refer to the Mahomedan law officers all questions of law on which no specific Regulations had been passed, and to regulate their proceedings by the futwa; from which they were not to deviate without a reference to the Nizamut Adawlut. Retaliation of Death.

In cases of murder, the refusal or neglect of the heir to prosecute, or his minority, should not be considered sufficient grounds to bar the trial. In such cases the court of circuit were to require their law officers to declare what futwa they would have delivered, if the defect according to Mahomedan law had not existed; and were to refer the case, with the futwa, to the Nizamut Adawlut, who would pass the same sentence as if the objection had not existed. Non-prosecution by the heir.

When the evidence of any witness would, according to Mahomedan law, be invalidated on account of the religion of the witness, the law officers were to be required to declare what would have been the judgment if such evidence had not been so affected. The trial and futwa were then to be referred to the Nizamut Adawlut, who would pass sentence as if the evidence had been valid in Mahomedan law. Evidence.

In all cases, judges of circuit were to accompany the referred trials with a letter, containing their opinion on the merits of the case. Reference to the Sud. Niz^{t} Ad^{t}.

The sentences of the Nizamut Adawlut were to be regulated by the Mahomedan law, excepting where a deviation therefrom should be sanctioned or directed by any Regulation. But the distinctions made by Yusuf and Mahomed, and by Hunneefah, as to the mode of committing murder, were not to be adhered to by the Nizamut Adawlut; the intention of the criminal, inferrible from the nature and circumstances of the case, and not the manner or instrument of perpetration (except as evidence of the intent), were to constitute the rule for determining the punishment.

A person convicted of murder was not to be exempted from punishment on account of the heir not demanding retaliation, or demanding the price of blood. The proceedings in trials referred by the courts of circuit were to be submitted to the Mahomedan law officers of the Foujdarry Adawlut, who were to state in writing at the foot of each trial, whether the futwa of the law officers of the court of circuit was consistent with the evidence and conformable to the Mahomedan law; if it was not so, the law officers were to state what futwa in their opinion should have been delivered. The court on perusal of the whole were to pass the final sentence.

The sentence when passed was to be communicated by the registrar of the Nizamut Adawlut to the court of circuit, who would issue a warrant to the proper officer to cause it to be carried into execution.

If a criminal sentenced to death should appear to the Nizamut Adawlut to be a proper object for mercy, they were to recommend to the Governor-general in Council his pardon, or a commutation of his sentence.

The appointment and removal of law officers and of ministerial officers in criminal courts is provided for under the rules relative to such appointments in the civil courts of corresponding jurisdiction.

Regulation VI.—1796.

Power to pardon or to grant Mitigation of Punishment.

This Regulation declared, that when the futwa of the law officers of the Nizamut Adawlut should sentence a prisoner to a more severe punishment than the court should deem suited to the circumstances of the crime, in cases in which the Mahomedan law allowed no discretion, the court were to pass sentence according to the futwa, but might suspend execution thereof, and submit the case to the Governor-general in Council, with a recommendation of pardon or mitigation of punishment. Reg. VI. 1796.

The Nizamut Adawlut were also authorized to recommend to the Governor-general in Council the offer of conditional pardon to accessaries, in cases of a heinous nature, such pardon to be confirmed on the conviction of the principals. The judges of the courts of circuit were to recommend to the Nizamut Adawlut cases in which such conditional offer of pardon should appear to them expedient.

Regulation IV.—1797.

Modification of the Mahomedan Law of Retaliation.

This Regulation was passed to amend certain provisions of the Mahomedan law, as operating under the rules of Regulation IX. 1793; it directed that in all cases of murder Reg. IV. 1797.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (D.)

the attendance of the heirs competent to prosecute and entitled to retaliation should be assumed in the futwa. If the law officer declared a prisoner guilty, the trial was to be referred to the Nizamut Adawlut, whether the sentence passed according to the Mahomedan law adjudged the prisoner to death, or whether it declared him exempt from capital punishment, on account of the relation between the prisoner and the deceased, as that of parent and child, master and slave, &c. If the futwa declared the prisoner guilty of one of the four kinds of homicide not being murder, if the punishment adjudged were the payment of the price of blood, the court of circuit was to commute the sentence to imprisonment, referring the sentence to the Nizamut Adawlut in cases of imprisonment for life, and carrying it into execution if only temporary. The Nizamut Adawlut might either require further evidence, if they saw occasion for it, or might pass such final sentence as should be conformable to justice and to the Mahomedan law, as modified by the Regulations. In any case not provided for by the Regulations, in which the Mahomedan law might appear repugnant to justice, if its provisions were in favour of the prisoner, he was to have the benefit of it; if against him, then his pardon or a mitigation of the punishment was to be recommended to Government. In either case a legislative enactment to remedy the evil for the future was to be proposed by the Nizamut Adawlut, for the consideration of the Government.

This Regulation declared, that the putting any one to death on the ground of practising sorcery should be deemed murder; and further, all persons forming assemblies, or causing such to be held, for the trial of any supposed sorcerer, who in consequence might be put to death, should be deemed accomplices in the murder.

The Nizamut Adawlut were authorized to commute sentences of imprisonment for more than seven years to transportation. Persons sentenced to imprisonment for life were to have the following particulars inscribed on their foreheads; their name, sentence, date of sentence, and the court by which it was passed; such inscription was to be made by the process termed "godena," by which the Hindoo women ornament their faces, and which leaves a blue mark that cannot be effaced.

Regulation XIV.—1797.

Relief of Persons suffering indefinite Imprisonment for Fines unpaid.

Reg. XIV. 1797.

Under the operation of the Mahomedan law, as administered by the courts established before 1793, and also under the Regulations prescribing the punishment of fine in certain cases, without requiring a period of imprisonment to be fixed as equivalent to the fine, it was found that several persons had been sentenced to the payment of sums which they were unable to discharge, and that they must, unavoidably, have remained imprisoned for life, or for periods greatly disproportionate to the offences committed, and much beyond the probable intention of the courts by which they had been passed. The present Regulation was enacted to afford relief to persons actually suffering under the previous rules, and to prevent the recurrence of the like evil in future. It vested power in the Nizamut Adawlut to revise all cases of persons sentenced to indefinite imprisonment, for the payment of deyut or the fine of blood, or for the value of stolen property; for pecuniary compensations to individuals or fines to Government, and to grant relief according to their discretion. The Regulation further provided, that no pecuniary compensations should in future be recoverable by individuals in any criminal prosecution; that no fines should be imposed, except for the use of Government; that in sentencing to the payment of a fine, the court should fix a definite period for imprisonment, at the end of which the prisoner should be discharged, although the fine were not paid. It was declared, that the Regulation did not prohibit the restoration of stolen property produced, nor the reimbursement of costs to prosecutors.

Regulation XVII.—1797.

Punishments for Perjury

Reg. XVII. 1797.

The object of this Regulation was to prescribe specific punishments, by imprisonment, corporal punishment and public exposure, for the crime of perjury, which, by the Mahomedan law, was declared punishable, according to the discretion of the judge. The Regulation accordingly directed, that on a conviction of perjury, the law officers should declare whether the prisoner had incurred the penalty of exposure as well as corporal punishment and imprisonment. If the answer were in the affirmative, the court might sentence the offender, in addition to the last-mentioned punishment, to have inscribed on his forehead, by the process termed "godena," in the native language, words characterizing his offence. Whenever this stigma should be inflicted, the judge passing the sentence was to record his reasons.

Regulation VIII.—1799.

Modification of the Mahomedan Law of Retaliation.

Reg. VIII. 1799.

The modification of the Mahomedan law in cases of murder, enacted by Regulation IV. 1797, had not been found sufficient in regard to that class of cases in which the criminal was exempted from the punishment of death, on the ground of the relation in which he stood to the deceased; the Regulation referred to had directed that all such cases should be sent up for final decision to the Nizamut Adawlut. The Mahomedan law officers of that court had declared, that a father or mother, or grandfather and grandmother, wilfully murdering their child or grandchild, or murdering any person of whom their child or grandchild might be one of the heirs, could not be sentenced to suffer death by retaliation; and that such

sentence

sentence could not be passed against a master for murdering his slave, nor against any one for the murder of a slave, appropriated by his owner to the service of the public, nor against a person wilfully killing another at the desire of the party slain; moreover, if any of the persons above-mentioned were concerned with others in the perpetration of wilful murder, their exemption from retaliation precluded the infliction of capital punishment, (except under the discretion allowed in all cases of tazeer and seasut) upon any of their accomplices; the operation of this rule being repugnant to the principles of justice, the present Regulation enacted, that in all cases of wilful murder, though the futwa should declare the culprit exempted from retaliation on account of the relation between him and the deceased, the Nizamut Adawlut should sentence him to death; and that the accomplices of the party should also be liable to sentence of death. The desire of the party slain to be put to death was declared to be no justification of wilful homicide.

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Regulation VIII.—1801.

Modification of the Mahomedan Law of Retaliation of Death and of Bodily Injury.

Reg. VIII. 1801.

This Regulation was enacted to remedy the evils arising from the erroneous principle on which the Mahomedan law deals with cases in which death or maiming ensues from the act of a person, if that act differ from the intention of the agent, either as to the object struck, or the manner in which the stroke is inflicted. In all such cases the Mahomedan law looks at the result, not at the intention; whether the slayer intended to murder A., and unintentionally killed B., or whether in the commission of a lawful act, and without any evil intention to any one, he accidentally killed the deceased, or whether actually intending to commit murder, the weapon which he used, instead of striking direct, struck by rebound or otherwise; in all these cases the act differing from the precise intention of the slayer, the Mahomedan law declares that retaliation does not apply, and only imposes the fine of blood. This Regulation, therefore, provided, that if a man intending to murder one individual should kill another, the Mahomedan law officer should be required to declare what would have been the punishment by law, if the prisoner had carried his murderous intention into effect; and if the futwa should condemn him, he was to be sentenced to death. The same rule was directed to be applied to all cases in which death should ensue in the prosecution of any intention, the completion of which would have rendered the offender liable to a sentence of death; and likewise to cases of maiming or wounding, where, if the act should have differed from the intention, the Mahomedan law officers were to be required to state what would have been the sentence if the act contemplated had been completed, and the court were to pass sentence accordingly.

Regulation LIII.—1803.

Modifications of the Mahomedan Law regarding Discretionary Punishment.

Reg. LIII. 1803.

This Regulation was enacted to provide for a more equitable and consistent adjudication of the discretionary punishments which the Mahomedan law places in the power of the magistrate to award. First, for offences for which no stated punishment is fixed by that law. Second, for such as, though liable to specific punishments, have not been proved against the persons charged, according to the Mahomedan law of evidence, or where the application of the prescribed punishment is barred by some special exception or legal defect, as in certain relations of the prosecutor to the culprit, &c. Third, for heinous crimes requiring, for the ends of justice, a heavier punishment than the law has prescribed for the offence under ordinary circumstances: the discretion in the latter case extending to capital punishment. The principles which had guided the Mahomedan law officers in declaring the punishments due under such discretionary authority, having been found to lead to inadequate and unjust sentences, it was deemed necessary to determine by a Regulation the punishments which the criminal court should adjudge in all cases in which discretion is vested in the judge by the Mahomedan law.

It was also found necessary to define and to apply a new rule of punishment to robbery by open violence; a prevalent crime, not unfrequently attended with murder or great personal injury and with burnings. The Mahomedan law assigns capital punishments to the principals and accessaries in murders committed in the perpetration of open and violent robbery; and amputation of two limbs to the robbers if no death have ensued; but these penalties cannot be applied to murders or robberies committed in any other place than on or near the highway, and at a distance from any inhabited place; and the offenders are exempted from the prescribed punishments, collectively or individually, under a variety of circumstances not affecting the criminality of the acts, and according to rules repugnant to justice. To obviate these evils, and to modify certain rules regarding the disposal of persons returned from transportation before the time of banishment had expired, and re-captured, the Regulation enacted as follows:—

Rules for the adjudication of Discretionary Punishment.

In cases of discretionary punishment, the futwas of the law officers were to leave the measure thereof to be determined by the court of circuit or Nizamut Adawlut.

If any Regulation had assigned specific punishment for the offence, the courts were to pass sentence conformably thereto.

If no Regulation had assigned specific punishment, but such punishment had been assigned by the Mahomedan law, then, if the offender were declared by the futwa to be exempted from such punishment, on the ground that the evidence, though amounting to

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strong presumptive proof, was not such as the Mahomedan law requires for conviction, or because of some legal exemption, the courts were to require their law officer to state what would have been the punishment if the evidence had been sufficient to convict, or if the offender had not been legally exempt; and the court were required to pass sentence according to the second futwa, provided the evidence, though not conformable to Mahomedan law, were sufficiently strong and convincing.

If no punishment were specified by the Mahomedan law or by any Regulation, the court of circuit were not to sentence to more than 39 stripes, and imprisonment with hard labour for seven years. If that punishment should appear insufficient, they were to refer the trial for the sentence of the Nizamut Adawlut, who might pass sentence not extending to capital punishment, according to the circumstances of the case. The Nizamut Adawlut were at the same time to propose a Regulation to fix the punishment for any crime of magnitude not before provided for, and which might appear to require an express enunciation of the penalty to be incurred by its commission.

Definition of Dacoity.

Gang robbery by open violence (dacoity) was defined to be, the going forth armed, or in a gang, for the purpose of committing robbery, and actually robbing and attacking any person, or any building in which there might be any person or property. If an adult of sound understanding should be convicted of such offence, he was not to be exempted from punishment by the circumstances which are allowed to bar it by the Mahomedan law. If any Regulation prescribed the penalty, the court was to conform thereto. If the law officer declared the offender liable to amputation, the court might either refer the trial to the Nizamut Adawlut or commute the punishment.

Punishment.

Specific Punishments.

The Regulation prescribed the following specific punishments:—

1st,—Whenever murder should have been committed, the principals and accessaries were to suffer death.

2d,—In cases of severe injury to the body short of murder, or setting fire to a dwelling-house, principals and accessaries were to be imprisoned, and transported for life. Leaders of gangs might for a second offence be sentenced to death.

3d,—In cases of gang robbery by open violence, without murder or severe bodily injury or burning, the offenders were to suffer imprisonment and hard labour for 14 years. For a second offence a leader might be imprisoned and transported for life.

4th,—Persons convicted of the intention to commit gang robbery by open violence, who had been prevented from completing the act, were to be imprisoned with hard labour for seven years.

The same punishments were declared applicable to cases of burglarious or any entry by night into a house or building for the purpose of committing theft, if after entry murder were committed or great personal injury inflicted.

Transportation.

The Regulation then provided, that no person should be sentenced to transportation beyond the sea unless sentenced to confinement for life; and in such cases, the court passing the sentence was required to specify whether the convict should or not be transported beyond the sea. Power was given to the courts to banish convicts from the district in which they abode, and to keep them to hard labour in that to which they might be removed.

Convicts escaping from confinement before the expiration of their sentence were declared liable to further punishment, in addition to their former sentences; and convicts sentenced to transportation for life, and returning before the expiration of the sentence, might be adjudged to suffer death.

The remaining provisions of the Regulation related chiefly to the detail of practice, and are of no great importance.

Regulation III.—1805.

For the more effectual Punishment of Gang Robbery.

Reg. III. 1805.

The object of this Regulation was to add flagellation to the other punishments declared for gang robbery, and to render village watchmen and police officers amenable to exemplary punishment for conniving at gang robbery or at the escape of the robbers. It accordingly enacted that persons sentenced to transportation for life, or to imprisonment for not less than 14 years, might be further punished with not more than 39 lashes of the corah, and persons sentenced to imprisonment for seven years might be further punished with 30 lashes of the corah. It was likewise declared, that any officer of the village or general police who should be convicted of being a party to any of the different species of gang robbery specified in Regulation LIII. 1803, should be liable to the severest punishment assigned to the most aggravated character of the act in the Regulation above referred to. Connivance at the offence to be punished in the same way as participation in the actual commission of the act.

Regulation XIII.—1806.

For the Prevention and Punishment of the Forgery of Stamps, and of the unauthorized Sale of them.

Reg. XIII. 1806.

(Rescinded by Reg. I. 1814.)

The preamble stated that attempts having been made to imitate the stamps established by the Regulations of Government, it had become necessary, for the security of the public revenue derived from that source, to adopt measures more effectually to prevent the fabrication of false stamps, and the use of forged stamp paper, for which offences the Mahomedan law

law did not prescribe any specific punishment. The Regulation, after prescribing several precautionary measures in the issue of stamps, provided for the appointment of special agents, under written sunnuds from the magistrates, and rendered it penal for any person to vend stamps without such appointment. It further enacted, that persons charged with forging or uttering forged stamp paper, should be tried before the courts of circuit, and be liable on conviction to corporal punishment, not exceeding 39 stripes of the korah, and to imprisonment and hard labour for seven years.

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Those rules were modified by Regulations VIII. 1807, and by VII. 1809, and by XII. 1810.

Reg. VIII. 1807, VII. 1809, & XII. 1810.

Regulation II.—1807.

For the more effectual Punishment of Perjury and Forgery.

This Regulation was enacted for the more effectual prevention and punishment of perjury and forgery, no specific penalties having been attached to those crimes by the Mahomedan law, which left them punishable at discretion, by flagellation, imprisonment and public ignominy. This Regulation defined perjury to be the giving, intentionally and deliberately, before a court of judicature, magistrate or other authorized public officer, a false deposition, upon oath, or under a solemn declaration taken instead of an oath, relative to some judicial proceeding, civil or criminal, and upon a point material to the issue thereof.

Reg. II. 1807. Definition of Perjury;

Forgery was declared to include all fraudulent and injurious fabrications or alterations of written deeds, or of written or printed papers, as well as all counterfeit seals or signatures thereto, and the illicit imitation of any public stamp or stamped paper established by the Government. The Regulation provided, that if any person should be convicted of perjury or forgery, and if the futwa should declare him liable to discretionary punishment, the judges of circuit (concurring in the conviction) should sentence the offender to be publicly exposed, to be branded in the forehead with words descriptive of his crime, to receive 30 stripes, and to be imprisoned, with hard labour, for not less than four nor more than seven years, during which time he might be banished from the district in which he resided. It was declared that persons charged with perjury or forgery should not be admitted to bail by magistrates, except under special authority of the court under whose directions they were committed for trial.

and of Forgery. Punishment.

Persons considered by the court of circuit to be guilty of perjury before them, might be committed for immediate trial before the same sessions, provided all the witnesses, both for the prosecution and the defence, were in attendance.

In these, as in other cases, if the judge of circuit should differ from the futwa of the law officer, declaring the prisoner guilty, he was to refer the case to the Nizamut Adawlut.

Regulation VIII.—1808.

For the more exemplary Punishment of Gang Robbery.

An option had been given by Regulation LIII. 1803, to the courts of circuit in cases of gang robbery not attended with murder, either to refer the case for the final sentence of the Nizamut Adawlut, if the court thought the offenders deserving of transportation for life, or of passing a mitigated sentence of temporary imprisonment in cases which should appear to them less aggravated.

Reg. VIII. 1808.

The Nizamut Adawlut had been empowered by the previous Regulations, in cases of which the ordinary punishment was imprisonment for fourteen years, to adjudge a higher degree of punishment, if they saw fit, upon leaders of gangs or upon other offenders, if convicted of a repetition of the crime, or found to be persons of notoriously bad character. In practice, however, it had been found that the courts of circuit, if they concurred with the futwa, had exercised the authority vested in them of passing sentence in cases of conviction, wherever a sentence of perpetual imprisonment was not prescribed by the Regulations; and that in consequence, the Nizamut Adawlut had seldom been enabled to exercise their discretionary power above mentioned; and many persons convicted of robbery, of whose amendment no hope could be entertained, had been set at liberty at the expiration of a limited period, to join their former associates and to renew their depredations. The present Regulation therefore enacted that all persons convicted of robbery by open violence, as defined in Regulation LIII. 1803, and not liable to capital punishment, should be sentenced to receive thirty-nine lashes, and to be imprisoned and transported for life, unless the Nizamut Adawlut should see fit to mitigate that sentence; all convictions therefore for that offence were to be referred to the Nizamut Adawlut.

In consideration of the additional labour which this enactment would cast upon the judges and the law officers of the Nizamut Adawlut, it was provided that whenever the state of business should require it, it should be competent for one law officer to write the futwa, and one judge to pass sentence, provided such futwa should agree with that of the court making the reference, and that the sentence was in accordance with the opinion of the court of circuit. In cases where these did not agree, the other law officer and another judge of the Nizamut Adawlut were to be called in to decide.

The Regulation further provided, that before the liberation of persons sentenced to temporary imprisonment for gang robbery, they were to be required to give substantial security for

Security for good behaviour.

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for their good conduct, and were not to be released without giving such security, unless from their character and conduct while in confinement, it might seem proper to discharge them on their own recognizances.

Regulation XIV.—1810.

Powers of Sudder Nizamut Adawlut to pardon and mitigate punishment.

Reg. XIV. 1810.

This Regulation rescinded the provisions of former enactments which required a reference from the Nizamut Adawlut to the Governor-general in Council, to obtain a pardon or mitigation of punishment for persons convicted of any criminal offence; and it enacted that in all cases in which the punishment adjudged by the futwa of the law officer, or declared by the Regulations to attach to any crime, should appear excessive in the particular case, it should be competent to two judges of the Nizamut Adawlut to remit or mitigate such sentence; provided that in all such cases the grounds of the remission or mitigation should be recorded and communicated to the court before whom the trial had been held, with directions that it be made known in open court to the prisoners concerned. The Regulation further empowered the Nizamut Adawlut to authorize conditional offers of pardon to accessaries in cases of heinous crimes, a power which by Regulation VI. 1796, was vested only in the Governor-general in Council.

Regulation I.—1811.

Punishment for Housebreaking.

Reg. I. 1811.

This Regulation was enacted for the more effectual check of the offence of breaking into houses and other buildings, tents or boats, whether used for dwellings or for the reception of property; it likewise contained rules for the punishment of the receivers of stolen goods, which will be found under the head of "Magistrates;" and for licensing retail dealers in gold, silver and other metallic wares, which are placed under the head of "Police." The Regulation defined the crime of housebreaking, and declared the commission of it in a dwelling-house between sunset and sunrise to subject the offender to banishment for fourteen years and thirty-nine stripes; if between sunrise and sunset, to seven years' banishment and twenty stripes. The same offence, however, if committed in a warehouse or other place not used as a dwelling-house, whether by day or night, was to subject the offender to seven years' imprisonment and twenty stripes. If a person in the commission of housebreaking should kill another, he was to be adjudged to suffer death; all accessaries were to suffer the same punishment as principals.

Definition of Housebreaking.

Persons convicted of receiving stolen goods with a guilty knowledge were to be imprisoned for seven years, and receive thirty-nine stripes. If they knew the property to have been gained by gang robbery, they might be sentenced to fourteen years' imprisonment with thirty-nine stripes.

Regulation XIV.—1811.

Transportation abolished.—Allepore Gaol.

Reg. XIV. 1811.

By this Regulation the punishment of transportation for life beyond sea was abolished, and in lieu thereof was established perpetual imprisonment in a gaol at Allepore in the vicinity of Calcutta, where convicts were to be employed in the manufacture of articles saleable at the Presidency, or in such other labour as the superintendent should direct, but were not to be worked upon the public roads, nor to quit the area attached to the gaol.

Regulation II.—1813.

Punishment for Misappropriation of Public Money.

Reg. II. 1813.

This Regulation declared that the native cash keepers, collectors and other native officers of Government, who should make use of the public money for their own advantage or that of any other individual, should be deemed guilty of a misdemeanor, and should be liable to imprisonment for seven years on conviction before the court of circuit; such public officers, however, were not to be sentenced to stripes or hard labour; but if the stated period of imprisonment should be deemed by the court not a sufficient punishment, they were to refer the case for the final sentence of the Nizamut Adawlut.

Regulation IX.—1813.

Transportation re-established.

Reg. IX. 1813.

This Regulation restored the punishment of transportation, and declared that all convicts sentenced to transportation should be sent to such of the British settlements in Asia as the Governor-general in Council should appoint, who might also direct the transfer of convicts from one place to another. The local authorities were to be consulted upon the propriety of allowing any convicts to be exempted from removal, whose good conduct might have merited that indulgence, or who, from sickness or infirmity, might not be fit objects to be removed.

Regulation XI.—1814.

Punishment for Housebreaking.

Reg. XI. 1814.

The purpose of this Regulation was to enable the courts of circuit, without reference to the Nizamut Adawlut, to mitigate the sentence which they were directed to pass in cases of housebreaking

housebreaking by Regulation I. 1811. The sentence of banishment for fourteen years and thirty-nine stripes might be reduced to seven years' imprisonment with or without stripes or banishment. The sentence to seven years' banishment with twenty-nine stripes might be reduced to three years' imprisonment with or without stripes or banishment. Whenever a further mitigation or a remission of the punishment might appear proper to the court of circuit, they were to refer the case for the orders of the Nizamut Adawlut.

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Regulation XV.—1814.

Aggregate Penalties for several Offences.

This Regulation was enacted to define the punishment to which an offender should be subject, who had been convicted on separate charges, when the aggregate penalties on the several convictions might involve a period of imprisonment exceeding fourteen years. In such cases the court of circuit might reduce the punishment to fourteen years' imprisonment in banishment and thirty-nine stripes; but if that punishment should appear insufficient, the trial was to be referred to the Nizamut Adawlut.

Reg. XV. 1814.

Regulation XVII.—1817.

Amendments of the Mahomedan Law in regard to Punishments and Evidence.

Reg. XVII. 1817.

The objects of this Regulation, as stated in the preamble, were,—1st. To supply a deficiency in the existing Regulations which contained no provision for enabling the judges of the Nizamut Adawlut to pass a sentence of punishment when the futwa of the law officers should not convict the prisoner of the fact or facts charged against him, nor declare him liable on strong presumption to discretionary punishment. 2d. To amend the provisions of the Mahomedan law of evidence in certain cases in which its effect was such as almost to prevent the due course of justice, especially where, on failure of direct evidence, punishment could not be inflicted on presumptive evidence. These defects of the Mahomedan law were found to have most injurious effects in cases of rape, incest and adultery, and also in those of perjury, its exceptions to the competency or credibility of witnesses being, in several instances, arbitrary and unjust. The present Regulation therefore provided as follows:

Whenever a prisoner should be acquitted by the futwa of the Mahomedan law officer, if the judge of circuit should be of opinion that the proof was sufficient to convict him, and that he was a proper object of punishment, the judge should refer the case to the Nizamut Adawlut. If the futwa of the law officers of the Nizamut Adawlut acquitted the prisoner, but two or more judges of that court considered the evidence sufficient to convict him, they should, notwithstanding such futwa, pass sentence upon him according to the nature and degree of the offence.

If the evidence of a witness before a court of circuit should be declared by the Mahomedan law officers inadmissible on any ground which might appear unreasonable, the judge should nevertheless take the examination of the witness, and, at the conclusion of the trial, should require the Mahomedan law officer to state what would have been the sentence if such evidence had been admissible, and the judge was directed to pass sentence accordingly; if, however, the conviction was found to rest exclusively on the objectionable evidence, then the judge was to refer the trial for the decision of the Nizamut Adawlut.

Zina.

In cases of zina, the futwa of the law officers was only to declare whether the prisoner was legally convicted, or whether there was, from the evidence, strong presumption of his guilt. If the judge of circuit concurred in the conviction, or in the presumption of his guilt, he was to sentence the prisoner to imprisonment, with hard labour, not exceeding seven years, with thirty-nine stripes; but in all cases where that punishment should not appear sufficient, and always in cases of rape, the trial was to be referred to the Nizamut Adawlut.

No prosecution of a married woman for adultery was to be instituted, but by the husband.

Homicide.

The Regulation declared, that in cases of homicide not amounting to murder, in which the fine of blood might be commuted by the circuit court, such power of commutation shall only extend to a sentence of seven years' imprisonment, with hard labour, and thirty-nine stripes. If any heavier punishment appeared requisite, the case was to be referred to the Nizamut Adawlut.

Robbery.

The Regulation declared, that in all cases of robbery, if the act had been accompanied with an attempt to commit wilful murder, or with actual corporal injury such as to endanger life, the principals and accomplices were liable to the same punishment as that prescribed for gang-robbery: viz. transportation for life and thirty-nine lashes; all such cases to be referred to the Nizamut Adawlut.

In cases of robbery in which corporal injury to a less degree than stated above had ensued, the court of circuit might pass sentence of imprisonment in banishment for fourteen years and thirty-nine stripes.

Forgery and Perjury.

In cases of perjury or forgery, the court of circuit might sentence the prisoner, on conviction, to imprisonment in banishment for seven years, and to receive thirty lashes; or in cases of forging or counterfeiting the current coin or securities of the British Government, to the like punishment for fourteen years.

The crime of uttering or giving currency to forged deeds, stamps, coin or bank notes, with a guilty knowledge, also that of clipping or defacing the coin, were declared punishable by

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the court of circuit with imprisonment for seven years; and in aggravated cases, or for second offences, to exposure and corporal punishment; if the offence were repeated a third time, the case was to be referred to the Nizamut Adawlut.

Persons having base coin in their possession, unable to give a good account of it, might be sentenced by the magistrate to pay four times the value, and to be imprisoned for six months.

Branding.

The punishment of branding on the forehead was declared applicable only to convicts sentenced to imprisonment or transportation for life.

Perjury.

Extension of the Definition.

The definition of perjury was extended to include false oaths taken before any public officer duly authorized, though the deposition sworn to might not relate to any judicial proceeding. In all cases of perjury, or subornation of perjury, before any public officer, the accused were not to be committed or held to bail, except on the requisition of the public officer before whom the perjury had been committed.

In cases of reference from the court of circuit to the Nizamut Adawlut for mitigation or remission of punishment, a single judge of the Nizamut Adawlut was declared competent to grant such remission, if he concurred in opinion with the judge who had referred the case. It was further declared, that a single judge might order a mitigation of punishment, if such mitigation appeared called for, even though no mitigation has been recommended by the judge of circuit. The judge of the Nizamut Adawlut was in all such cases to record his reasons for directing the mitigation

Regulation VII.—1820.

Punishment for Dhurna.

Reg. VII. 1820.

(*See* Reg. V. 1797, under the head "Special".)

It is stated in the preamble to this Regulation, that the rule which required that in cases of dhurna, the opinion of the pundit, instead of that of the Mahomedan law officer, should be taken, whether the crime of dhurna was established by the evidence, had been found inconvenient; because the pundit not travelling with the circuit court, the reference to him at the sudder station occasioned delay. It had moreover been ascertained, that the crime itself was punishable as a misdemeanor according to the Mahomedan law, under the head of "Oppression." This Regulation consequently provided, that on trials for dhurna, as in other cases, the futwas should be taken from the Mahomedan law officer. The court of circuit were authorized to punish the offence by imprisonment, not exceeding one year, and a fine not exceeding 1,000 rupees, commutable to a further imprisonment not exceeding one year.

Regulation IV.—1822.

Amendments of the Mahomedan Law in Cases of Murder and Insanity.

Reg. IV. 1822.

This Regulation was intended to provide a remedy for certain defects of the Mahomedan law, by authorizing two or more judges of the Nizamut Adawlut to acquit a prisoner, notwithstanding his conviction by the futwa, if they should consider the evidence insufficient for the conviction.

In cases of murder or severe personal injury, if the heirs refused to prosecute, the trial was nevertheless to proceed, and the law officers were to declare what would have been the futwa had they prosecuted.

According to the Mahomedan law, if a person should become insane after the perpetration of murder, but entirely recover before his conviction, the intervening insanity is considered to bar all capital or discretionary punishment; the criminal being subject only to the payment of the fine of blood. In all such cases the law officers of the Nizamut Adawlut were to declare what would have been the futwa, if such insanity had not intervened.

In cases of murder in which it should be pleaded in justification that the deceased was discovered in the act of adultery or fornication, the law officers were to declare in their futwa what would have been the sentence if such plea had not existed; and the judges were to pass sentence in consideration of all the circumstances of the case.

It had been found in many cases of severe corporal injury, that the Mahomedan law officers only awarded to the injured person his expenses for medical attendance; such reparation being often inadequate, the court of circuit were by the present Regulation authorized under such futwa to pass sentence of imprisonment for seven years; or in aggravated cases, might refer the trial for the final sentence of the Nizamut Adawlut.

Whenever the futwa should declare that a person convicted of a criminal offence was exempted from punishment by reason of a doubt as to his sanity when he committed the act; if two judges of the Nizamut Adawlut should consider the evidence to have satisfactorily established that the prisoner was not insane at the time, they might pass sentence of punishment, notwithstanding the futwa of acquittal.

Regulation II.—1823.

Punishment for violent Affrays.

Reg. II. 1823.

The frequent occurrence of violent affrays, especially those occasioned by disputes regarding the possession or boundaries of land, and the importance of checking a crime which had not unfrequently led to homicide and other serious ill consequences, are declared in the preamble to this Regulation to have rendered it expedient that a minimum of punishment

ment should be fixed for such offences. The Regulation accordingly provided, that whenever any persons should be convicted of affrays attended with homicide, it should not be competent to the court of circuit to sentence the offenders to a less term of imprisonment than five years, with or without labour and corporal punishment.

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Regulation VI.—1828.

Explaining the Nature of the Affrays referred to in the foregoing Enactment.

By Regulation VI. of 1828, the provisions of this Regulation were explained not to be applicable to unpremeditated affrays, nor to aggressions in which the assailed party might not appear to have been previously prepared to meet their adversaries in the field of combat, nor to affrays, though accompanied by homicide, in which persons, legally protecting crops or other property, might be attacked by trespassers, or might resist aggression when defending such property, or in self-defence; in all which cases, the circuit judges agreeing with the futwas of their law officers, were to pass such legal sentence as might be suitable to the offence. Reg. VI. 1828.

Regulation III.—1825.

Punishment of Gang Robbery.

It had been enacted by preceding Regulations, that in all cases of conviction of robbery by open violence, the trial should be referred to the Nizamut Adawlut. The present Regulation enacted, that if the crime had not been perpetrated by a gang, or if it were unattended with circumstances of aggravation, such as could not be adequately punished by the courts of circuit, those courts might pass sentence on convicted offenders, without reference to the Nizamut Adawlut. Reg. III. 1825.

Regulation XII.—1825.

Modification of the Powers of Court, in regard to Punishment.

This Regulation modified the practice of the criminal courts in several particulars. It substituted in all cases the rattan for the corah, as an instrument of flagellation, and forbad the punishment of women by stripes. Contempts of court were declared not punishable by the rattan, but only by fine not exceeding 200 rupees, commutable to imprisonment in the civil gaol for a period not exceeding two months. Reg. XII. 1825.

In cases of culpable homicide, not amounting to wilful murder, and other cases in which the courts of circuit were authorized to pass sentence of seven years' imprisonment, with or without stripes or hard labour, with power to refer to the Nizamut Adawlut if that punishment should appear insufficient; such references were declared unnecessary by the present Regulation, and the courts of circuit were empowered to pass sentence to the full extent of the legal punishment, without such reference, if they concurred in the futwa of the law officer. It was further declared that no sentence of death should be passed by the Nizamut Adawlut, but with the concurrence of two judges.

Regulation XII.—1829.

Punishment of Wounding, with Intent to commit Murder.

It was declared in the preamble to this Regulation, that the effect of the provisions of Regulation XII. 1825 had been, that under many circumstances of wounding, which manifested a deliberate intention of committing murder, the punishment of seven years' imprisonment had been found wholly inadequate, and that relief intended to be afforded to the Nizamut Adawlut had not been experienced to the extent anticipated; the present Regulation therefore enacted, that in all cases of wounding, where the intention to commit murder was manifested, if the opinion of the commissioners of circuit concurred with the futwa of the law officer on that point, he might pass sentence of imprisonment for a period not exceeding fourteen years. Reg. XII. 1829.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice. (E.)

PART THE SECOND.

CRIMINAL JUDICATURE—POLICE.

REGULATIONS for the ESTABLISHMENT and MAINTENANCE of an EFFECTIVE POLICE.

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POLICE.

REGULATION XXII.—1793.

(E.)

Abolition of Zemindary Police and Establishment of the Darogah System.

Reg. XXII. 1793.

THE preamble to this Regulation, after adverting to the importance of an efficient police, proceeded to state that the clause in the engagements between the landholders and the government binding them to keep the peace, and to produce both robbers and property plundered within their estates, had not only been found nugatory, but, in numerous instances, had proved the means of multiplying robberies, owing to collusion between the robbers and the police officers entertained by such landholders. This Regulation therefore enacted, that the police of the country should thenceforward be considered under the exclusive charge of officers appointed by the Government. Landholders were released from responsibility for property stolen unless they were parties to the offence. Each zillah was divided into police jurisdictions, generally of the extent of ten coss (twenty miles) square, each superintended by a darogah, whose station was in the centre of his jurisdiction. Darogahs were authorized to receive charges of criminal offences committed, and to forward the accused to the magistrate, taking security from the prosecutors and their witnesses to appear before the magistrate. The darogahs were also to take up vagrants and suspicious persons, and to send them to the magistrates. The authority of the darogahs was limited to the apprehension of accused or suspicious persons, except that in cases of petty assaults, if the parties compromised and filed

Powers of Darogahs.

filed a razeenamah, they might discharge the prisoner. All the native watchmen of the village establishments were declared subject to the orders of the darogah, and were to be required to apprehend persons committing offences, and to forward them to the darogah, to whom they were also to give information of suspicious persons, vagrants, &c., and of breaches of the peace. The village officers might be dismissed for neglect of duty. The police officers of one district might follow persons charged with crimes into other districts. Darogahs were to receive a reward of 10 rupees for every convicted dacoit* who might have been apprehended within their respective jurisdictions, and 10 per cent. on the value of all recovered property on conviction of the robbers. Boats of particular descriptions were forbidden to be built without a license from the magistrate. The darogahs were to send monthly reports to the magistrates of all persons apprehended by them; the omission of such report would render the darogah liable to dismissal from office. The cities of Patna, Dacca and Moorshedabad were to be divided into wards, each to be the jurisdiction of a darogah, who was to be under the authority of the cutwal of the city. The darogah's guards were to parade their wards from sunset to daylight in two divisions, one, during the first half of the night, under the jamadar or deputy, the other under the darogah himself. The general duties prescribed to the cutwals of cities were of the same nature as those of the darogahs in districts.

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(2.) Regulations for the Administration of Criminal Justice. (E.)

City Police.

Regulation XXIII.—1793.

Establishment of Police Tax.

Reg. XXIII. 1793. (Rescinded.)

It was stated in the preamble to this Regulation that it had appeared equitable to the Government, on the introduction of a general system of police on the 7th December 1792, that the expense of the police establishments should be defrayed by the merchants, traders and shopkeepers residing in the cities, towns and bazars, because they were particularly interested in the establishment of an efficient police for the protection of their property, and because, in consequence of the recent abolition of the inland customs, they at that time paid no immediate tax to the state. With a view, therefore, of equalizing the assessment of that tax on native merchants, traders and shopkeepers throughout Bengal, Behar and Orissa, this Regulation was passed. It vested the assessment and collection of the police tax in the collectors of the revenue. The collectors were annually to estimate the total amount of the tax that would be required for the support of the police in each zillah or city, and to assess it proportionately on the several pergunnahs and wards. They were to appoint native assessors, who should fix the amount payable by each merchant or shopkeeper in each pergunnah or ward, and the assessors were to be sworn to the performance of their duties. Their number in each pergunnah or ward was not to exceed six, nor to be less than three. The inhabitants of the wards or pergunnahs collectively might appeal against the sum assessed as their proportion of the general zillah or city tax, and each individual might appeal against the sum fixed as his quota by the assessors of his pergunnah or ward to the civil court; the judge was immediately to try the objection, and to lower or confirm the assessment as might seem proper.

Regulation IV.—1797.

Inquests by Darogahs.

Reg. IV. 1797.

Darogahs of police, on hearing of a person having died an unnatural death within their jurisdiction, were to proceed to the spot to make personal inquiries into the circumstances of the case, and reduce them to writing in the presence of creditable people of the neighbouring villages. The statement signed by the persons present was to be immediately forwarded to the magistrate.

Regulation VI.—1797.

Abolition of the Police Tax.

Reg. VI. 1797.

In this Regulation it was declared, "That difficulties having been experienced in determining what persons were liable to be taxed under Regulation XXIII. 1793, and in fixing the general amount and individual proportions of the tax; and frauds and exactions having taken place in the assessment and collection to the vexation of the contributors as well as to the diminution of the produce of the tax, it was resolved to abolish the police tax, and to substitute stamp duties, to provide for the deficiency which would be occasioned in the public revenue by the abolition of that tax."

Regulation XVIII.—1805.

Zemindary Police.

Reg. XVIII. 1805.

The objects of this Regulation were to establish a separate magistracy and a zemindary police in certain districts, commonly called the Jungle-mehals, situated within the limits of zillahs Beerbhoom, Burdwan and Midnapoor, and to enable the Government to extend the system of zemindary police wherever they should see fit. It was stated in the preamble, that the zemindars of those districts had, with the consent of Government, exercised a local charge of the police, either jointly with the police darogahs appointed under Regulation XXIII. of 1793, or instead of such police officers, under rules adopted in the first instance experimentally; that those rules had been found successful in operation, and that it was therefore expedient

* Gang robbers of a very dangerous character.

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(2.) Regulations for the Administration of Criminal Justice. (E.)

expedient that they should be published in the form of a Regulation, and that Government should be enabled to extend their application to other districts as should be found advisable. Accordingly, it enacted the following provisions for the employment of zemindary police wherever the Governor-general in Council should see fit to intrust such powers to landholders.

Such zemindars as the Governor-general in Council might intrust with police authority were to receive a sunnud of appointment from the magistrate, not revocable but under the authority of the Government. They were to furnish the magistrate with lists of persons whom they might employ as police officers, and of their allowances in land or money, and were to fill up all vacancies. Such police officers were to be subject to the orders of the magistrate, and punishable by him for misconduct. In zemindaries where there should be police darogahs, the village watchmen were to be also subject to the darogahs; and the zemindar and his officers were to act in co-operation and support of the darogah. The zemindars were to observe the general police regulations, and to forward to the darogah or magistrate, within twenty-four hours after apprehension, all persons charged with heinous offences. Zemindars were prohibited from summoning the ryots of other zemindars, and the police officers of one zemindar were declared not subject to the orders of another, though all were required to co-operate for the public good. Zemindars might apply to the nearest military station for assistance in apprehending gangs of robbers. Zemindars participating in, or conniving at gang-robberies, were declared liable to fine or imprisonment; and in heinous cases, to forfeiture of their lands. They were to engage to be responsible for the amount of all properties stolen within their zemindaries, unless it were satisfactorily shown that the robbery was not attributable to any want of care on the part of themselves or their police officers. They might be sued in the civil court for the amount of any loss sustained by robbery within their zemindaries. Zemindars were to transmit periodical reports, and all other necessary communications, to the magistrates of their respective zillahs. It was further declared that managers of the estates of disqualified zemindars should be eligible to the charge of the police within their several districts.

Regulation XI.—1806.

Assistance to Troops on March.

Reg. XI. 1806.

This Regulation required magistrates, on receiving intimation from commanding officers of troops being to march through their districts, to provide all necessary supplies of provisions, bearers, carts and other necessaries and accommodations which such commanding officers might apply for; the magistrates, however, were prohibited from putting under requisition cattle or carriages never let out to hire, but solely appropriated to agricultural purposes. All such supplies and assistances were to be paid for by the commanding officer of the troops, at the regulated prices of the district; and commanding officers were strictly enjoined to inquire into all complaints of the misbehaviour of their troops. Men and cattle whose services were engaged for the assistance of military detachments, were not to be compellable to proceed beyond the first police station in the next zillah. When assistance was afforded by landholders in providing boats, temporary bridges or other accommodation for crossing rivers, or when any injury was sustained by such landholders, in consequence of the march of troops, compensation was to be afforded them through the Revenue department. The Regulation prohibited the sending of soldiers into the villages to procure provisions, or to press bearers or boatmen; and it likewise forbad the dressing of persons not soldiers in military apparel, or the investing private servants with badges or belts as worn by persons belonging to public establishments. The Regulation contained, also, special rules for the guidance of magistrates in applying for detachments, guards or escorts for the public service; and also provided for the punishment of soldiers permitting the escape of prisoners under their charge.

Reg. VI. 1825.

It was enacted by Reg. VI. 1825, that landholders who, after due requisition, should refuse their aid in the supply of provisions, boats, &c., should, on proof thereof after summary inquiry before the collector, be liable to fine.

Regulation IX.—1807.

Duties and Powers of Native Officers of Police.

Reg. IX. 1807.

By this Regulation, police officers were forbidden to issue process without special instructions from the magistrates, in any cases not involving a breach of the peace; but were to transmit the complaint deposed to on oath, to the magistrate, for his orders.

Darogahs, tehseeldars and zemindars, having charge of police, receiving a charge of murder or other heinous crime, were permitted to take the examination or confession, if offered, of the accused; and to make full inquiry into all important circumstances, and to submit to the magistrate a report, authenticated by the attestation of the persons examined, and the signature of such police officer; but no prisoner was to be detained for the purpose of such inquiry beyond forty-eight hours.

Police officers were required, on receiving reports of recent robberies or other violent crimes, to proceed to the spot and make diligent inquiry into the circumstances, and to submit a full report thereof, with the names of all suspected persons, for the information of the magistrate.

Regulation XII.—1807.

Appointment of Ameens of Police.

The objects of this Regulation are,—

1st. To enable the Government to avail themselves of the services of such respectable Mussulman and Hindoo inhabitants of credit and influence, as from their qualifications and character might be considered deserving of confidence in the maintenance of the peace, in preventing crimes and apprehending offenders, and to confer upon them appointments as ameens or head officers of police.

2d. To cause lists to be annually furnished to the magistrates of all watchmen and guards maintained in aid of the police.

The Regulation accordingly provided, that any respectable Hindoo and Mussulman inhabitant of the several zillahs might be appointed ameens of police. Preference was to be given, in the provinces, to zemindars, managers of estates, revenue officers collecting the rents of estates under Government management, responsible under renters, and agents having the management of estates; but in towns, any respectable inhabitant might be chosen. The commissions were generally to be in force only so long as the parties occupied the stations in consideration of which the office of ameen had been bestowed upon them.

The authority of the ameens of police was to be concurrent with that of the police darogahs, in the preservation of the peace, and in the apprehension of offenders. They might receive complaints regarding crimes and misdemeanors, and having apprehended the persons charged, were to forward them to the darogah, to whom they were also to communicate all information they might obtain concerning robbers, vagrants, &c. within their several jurisdictions. They were also specially charged with the supervision of the village watchmen. In the absence of the darogah, or if he were otherwise engaged, the ameens of police were to hold inquests, transmitting their proceedings to the darogah. They were not to take cognizance of petty offences, except in cases specially referred to them by the magistrates. The village police officers were declared to be subject to the orders of the ameens of police, in the same manner as to those of the darogah.

With a view to the more complete preparation of the register of the village watchmen subject to the orders of the darogah, the Regulation required that every landholder, farmer or other person employing any description of watchmen or guards, should transmit a list of them annually to the magistrate of the zillah or city in which they might be employed, under a penalty not exceeding 200 rupees, in case of disobedience.

Regulation IX.—1808.

Proclamation of Rewards for Apprehension of Dacoits.

Reg. IX. 1808.

The continued prevalence of gang robbery having rendered it necessary that further measures should be taken to facilitate the apprehension of the leaders (sirdar dacoits) to whose ascendancy over their respective gangs the existence of the crime was chiefly ascribed, the present Regulation was enacted to afford security and reward to persons who should be actively assisting in bringing such offenders to punishment, and on the other hand, to prescribe adequate penalties to such persons as should neglect the means in their power for the prevention of a crime so injurious to the peace and happiness of society. The Regulation enacted as follows: whenever a magistrate should be of opinion that the ordinary process for the apprehension of offenders would be ineffectual for the apprehension of any notorious leaders or members of a gang of dacoits, whose apprehension was essential to the security of the district, he was to submit a report of the case to the Nizamut Adawlut, who, if they considered the circumstances to require it, might order the issue of a proclamation, offering a reward for the apprehension of the offender, not exceeding 500 rupees; if it were desirable to offer a larger reward, the authority of the Governor-general in Council to that effect must be first obtained. The proclamation was to require the person named to appear before the magistrate, to answer to the matter alleged against him, within two months from the date thereof, and was to notify, that in default of such appearance he would be deemed guilty of the crime of which he was accused, and would in consequence be liable to imprisonment and transportation for life. The proclamation was further to notify the amount of reward to be paid on the apprehension of the person proclaimed, and likewise to state, that any person aiding or harbouring such proclaimed offender would be subject, on conviction, to fine, imprisonment and confiscation of property.

All persons were enjoined to afford assistance in the apprehension of gang robbers, and it was declared, that if any person, in his endeavours to apprehend a proclaimed offender, should wound or slay him in consequence of flight or resistance, he should be deemed entirely guiltless in respect of that act. Zemindars and others were declared specially accountable for the early communication to magistrates of information which they might possess respecting gang robbers; and magistrates were enjoined not to divulge any secret information which might affect the personal security of the informant. Zemindars or others, who should be proved, to the satisfaction of a magistrate, to have concealed the knowledge of the resort of gang robbers, &c. to their districts, were declared liable to imprisonment for six months, and a fine of 200 rupees, commutable to imprisonment for a further period of six months. Zemindars or others assisting or harbouring proclaimed dacoits, were declared further liable to the forfeiture of their estates or farms, such forfeiture, however, to take place only when confirmed by the Governor-general in Council, who was likewise authorized to remit that punishment or commute it to a fine.

Appendix, No. 6.

(2.) Regulations for the Administration of Criminal Justice.

Regulation X.—1808.

Superintendents of Police for three Divisions established at Calcutta.

Reg. X. 1808. (E.)

This Regulation constituted the office of superintendent of police, to have authority and jurisdiction in certain provinces, but to be stationed at Calcutta, for the purpose of concentrating information obtainable from different parts of the country, with a view to more extensive and better concerted operations for securing the peace, and especially for the discovery and seizure of gangs of dacoits. The superintendent of police was to have concurrent jurisdiction with the several zillah and city magistrates, in the divisions of Calcutta, Dacca and Moorshedabad, and a power to execute his process either by means of his own officers or through those of the local authorities. He was to be subject to the authority of the Nizamut Adawlut in all matters relative to the police, and was to be guided by their instruction upon all points not expressly provided for by the Regulations, or by the orders of the Government.

Regulation VI.—1810.

Penalties for Zemindars not co-operating in the Suppression of Gang Robbery.

Reg. VI. 1810.

This Regulation re-enacted, with little variation, the rules before declared in Regulation IX. of 1808, for the punishment of persons withholding information of gang robberies, &c. The only material addition was the declaration, that if the offender were an officer of Government, the Nizamut Adawlut should order him to be dismissed from his office, and should report to the Governor-general in Council, whether it appeared expedient that he should be declared incapable of ever serving the Government again.

Regulation VIII.—1810.

Superintendents of Police for the Upper Provinces established.

Reg. VIII. 1810.

In consequence of the great benefits experienced from the appointment of the superintendent of police for the divisions of Dacca, Calcutta and Moorshedabad, under the provisions of Regulation X. 1808, it appeared advisable that similar arrangements should be adopted in the divisions of Patna, Benares and Bareilly. This Regulation accordingly enacted, that the division of Patna should be annexed to those of Calcutta, &c. and that a separate superintendent of police should be appointed for the divisions of Benares and Bareilly, with the like powers and authority as those conferred by Regulation X. of 1808; subject however to any special Regulations that might be enacted for the internal administration of Benares and Bareilly respectively. The primary object of the appointment was declared to be the suppression and prevention of gang robbery; and with this view, the superintendents were authorized to move about the different zillahs of their districts as occasion might require, or as the Government might direct.

Regulation XVI.—1810.

Proclamation of Rewards for Apprehension of Dacoits.

Reg. XVI. 1810.

This Regulation enacted, that the native establishments of police were to remain generally under the authority of the zillah magistrates, but any part of them might be specially placed by the Governor-general in Council, under the control of a joint or assistant magistrate.

The general rule authorizing the payment of a reward of ten rupees for every dacoit apprehended was rescinded; and it was enacted, that such rewards as should have been offered by proclamation under Regulation IX. 1808, for the apprehension of robbers, should be payable, on the delivery of the parties proclaimed, to any magistrate or darogah.

The Regulation further provided, that in cases where heinous crimes had been committed, the perpetrators of which might not be known, it should be competent to the court of circuit, at the recommendation of the magistrate, to offer a reward by proclamation, not exceeding 100 rupees, for a leader of the gang, and twenty rupees for each inferior offender. The Nizamut Adawlut might authorize, for the same purpose, rewards not exceeding 500 rupees for a leader, and 100 rupees for each inferior offender. If higher rewards should appear necessary, the sanction of Government must be obtained for the offer of them.

The Regulation authorized the payment of rewards, upon the same scale, to police officers and others for meritorious services in the apprehension of gang robbers, though not proclaimed.

Regulation I.—1811.

Receivers of Stolen Goods.

Reg. I. 1811.

For the Preamble, which sets forth the various objects of this Regulation, see head "Court of Circuit." As regards police, it enacted, that all zemindars, managers of estates and revenue officers, neglecting to give information of notorious receivers or venders of stolen property within their several spheres of revenue collection, should be liable to fine and imprisonment. The Regulation further contained provisions regarding the issue and execution of search warrants. It also required that all gold or silversmiths, braziers, coppersmiths and ironsmiths, pawnbrokers, and itinerant dealers in second-hand articles, should take out licenses for exercising their trades; and that persons exercising those trades without such license, and likewise those who employed them, should be liable to imprisonment and fine.

Regulation VII.—1811.

Powers of Police Darogahs.

Reg. VII. 1811.

There having been reason to believe that abuses had been practised by the police darogahs and zemindars intrusted with the charge of police, in the exercise of the powers confided to them for bringing offenders to justice; and it appearing advisable that the attention of those officers should be exclusively directed to the maintenance of the public tranquillity, the present Regulation provided that complaints of the commission of adultery and such crimes, as well as of petty offences, should not be received by police darogahs, but should be preferred direct to the magistrate. The officers of justice, however, were to continue to receive complaints of affrays and tumultuary assemblies; and on written charges being preferred to them against persons of suspicious or bad characters, they were to make immediate inquiry into the matter, and if the charge were substantiated, to send the accused, with the evidence they had collected, to the magistrate. Police officers were prohibited from taking depositions on oath.

Regulation III.—1812.

Native Police.

Reg. III. 1812. (also under (A.) p. 707.)

The parts of this Regulation which regarded police, had for their chief object to render more efficient, and better to control the native heads of police. It provided, that the sentences and orders of the superintendents of police should be carried into execution by the zillah magistrates, on proper certificates of such proceedings from the superintendents.

Escape of Offenders.

It likewise directed that the magistrates of the several cities and zillahs should prepare and keep three registers:—1st. Of convicts who had broken gaol; 2d. Of persons for whose apprehension proclamations had been issued; 3d. Of persons charged with, or suspected of having committed heinous offences who had eluded the pursuit of justice. Copies or extracts from such Registers were to be transmitted by the magistrates to darogahs, zemindars and other native heads of police, together with warrants for the apprehension of offenders; and all such police officers were required to use the utmost diligence for their apprehension. It also directed, that the magistrates should cause it to be explained to all persons to whom such warrants were issued, that no guilt would be imputed to them for any consequences which might follow on resistance being made by the offenders to the execution of such warrants; and further, that no personal attendance before the court to prove the offence charged, nor any expense to themselves would be entailed on such zemindars or others, by the execution of such warrants; on the other hand, if they neglected to discharge the duty imposed upon them, they would be called upon by the magistrates to answer the charge, and if found guilty, would be sentenced to imprisonment for a period not exceeding six months, and to a fine not exceeding 200 rupees, commutable to a further imprisonment of six months.

Regulation XXI.—1812.

Licenses to Trades.

Reg. XXI. 1812.

This Regulation declared that the provisions of Regulation I. 1811, which required persons exercising certain trades to take out licenses, had been found productive of inconvenience disproportionate to the benefits resulting from them; those rules were, therefore, by the present Regulation rescinded.

Regulation XIII.—1813.

City Police and Assessment.

Reg. XIII. 1813. (Rescinded by Reg. XVII. 1816.)

This is a Regulation providing for the establishment of efficient police in the cities of Dacca, Patna and Moorshedabad, the expense of which should be defrayed by the communities for whose benefit and protection it was to be established. The Regulation directed that the inhabitants of those cities respectively should appoint all their own subsidiary police, and should also be chargeable for the expense of maintaining them. The cities were to be divided into *mohullahs*, or subdivisions of wards. The chokeydars or policemen were to receive not less than three rupees a month each, and their number was to be fixed by the magistrate, and not to exceed the proportion of two to every fifty shops or habitations; their pay was to be collected from the inhabitants, and was not to exceed the average rate of two anas * a month for each shop or habitation. A convenient number of merchants or substantial householders of each mohullah being assembled by the magistrate, they were to select one or more of their own class, but not exceeding four, to perform the duty of appointing and paying the chokeydars, and of collecting the monthly stipend. The persons so selected were to receive sunnuds of appointment according to a form prescribed in the Regulation, bearing the official seal and signature of the magistrate, and specifying the extent and nature of their powers and duties. They were authorized to levy the assessment, if not duly paid, by distress and sale.

* ⅛ of a rupee.

Magistrates were directed to be cautious in receiving complaints against persons holding sunnuds under this Regulation, and not unnecessarily to harass them. Sunnuds might be withdrawn for neglect of duty or misconduct. On the failure of the inhabitants of any mohullah to discharge the duties prescribed in this Regulation, the magistrate might nominate the chokeydars, and levy the monthly assessment. An appeal was allowed to the magistrate against the assessment fixed by the inhabitants. The duties of the chokeydars generally were those of inferior officers of police or watchmen.

Reg. III. 1814.

The application of the foregoing rules was extended by Regulation III. 1814, to the several stations at which the magistrates ordinarily resided in the divisions of Calcutta, Dacca and Moorshedabad, and Patna; and,

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(2.) Regulations for the Administration of Criminal Justice. (E.)

By Regulation IX. 1814, the provisions of the foregoing enactments were declared applicable to British subjects as well as to all others residing within the districts in which those Regulations should be in force; and by Regulation XVI. 1814, they were extended to the divisions of Benares and Bareilly, with the exception of the city of Benares.

Regulation VIII.—1814.

Inhabitants in general to assist in keeping the Peace.

Reg. IX. 1814.
Reg. XVI. 1814.
Reg. VIII. 1814.

This Regulation declared it to be the duty of all zemindars, local agents and other native officers employed in the collection of the revenue, whether having special police charge and authority or not, to give early notice of crimes and breaches of the peace; and on failure of so doing, it declared them liable to fine and imprisonment.

Regulation XIII.—1814.

The Office of Cutwal abolished.

Reg. XIII. 1814.

It having appeared that the office of cutwal in the cities of Dacca, Patna and Moorshedabad was not only unnecessary, but had in some respects proved prejudicial to the maintenance of an efficient police, that office was abolished.

Regulation XVII.—1816.

Appointment and Duties of the Native Police.

Reg. XVII. 1816.

The object of this Regulation was to provide for the most economical as well as the most efficient employment and superintendence of the native police. It directed in the first place, that all persons employed on police gaol establishments should be registered by the superintendents of police; who should regulate them upon the most economical scale consistent with efficiency, and should annually submit to the Government a comparative statement, showing the strength and expense of all descriptions of police and gaol establishments during the two preceding years within their respective jurisdictions, with all necessary information and suggestions on the subject.

The Regulation next provided, that magistrates in cities and zillahs, cutwals, darogahs and subordinate officers of police subject to their jurisdiction, should submit to the courts of circuit at the sessions lists of all cutwals, darogahs and gaolers appointed by them since the previous sessions. Any police officer considering himself unjustly removed, might prefer a petition to the court of circuit, who would investigate the circumstances of the case, and might order his restoration. If the court of circuit considered the magistrate to have abused his authority, they were to report on the subject to the Nizamut Adawlut.

Magistrates were authorized to station a part of their establishment at any spot other than the fixed station within their respective tannahs, reporting such arrangements to the superintendents of police. Officers of police when so stationed at outposts, might exercise the powers of darogahs in apprehending suspicious persons, vagrants, &c. whom they were immediately to forward to the tannah or stations to which the police officers might belong.

Superintendents of police were empowered to remove and appoint their own ministerial officers; also to fine or suspend police officers, communicating their orders in such cases to the magistrates who were to carry them into effect. Superintendents of police might also assume special charge of any particular tannahs, ordinarily under the jurisdiction of the magistrates, whenever such measure might appear desirable.

All correspondence relative to the expense or distribution of police establishments between the magistrates and the Government, was to be conducted through the superintendents of police. Magistrates were to communicate the escape of prisoners to the superintendents of police, who might offer rewards not exceeding 100 rupees for their apprehension; and sanction rewards to police officers or others, for meritorious conduct in apprehending offenders.

The general superintendence over public roads, bridges and similar works, was vested in the superintendents of police, who were to submit to Government reports relative to the construction of public works that might seem to be required, and were also to ascertain whether any means existed for defraying the expense of such works otherwise than from the funds of Government. Superintendents of police might also apply to the Nizamut Adawlut, to order that the convicts working in different zillahs should be collected together in one spot for the execution of any public works.

Regulation XXII.—1816.

Appointment and Duties of the Native Town Police.

Reg. XXII. 1816.

This Regulation was substituted for those previously enacted, especially Regulation XIII. of 1813, relative to the appointment and maintenance of chokeydars of police. It consolidated the former rules, and in some respects modified the system. It enacted that subsidiary police should be nominated and maintained by the community for whose benefit it was established. Each chokeydar was to receive not less than two nor more than three* rupees. The number was to be determined by the magistrate, not exceeding two to every fifty shops or houses, of which each was to contribute not more than two anas per month.

The

* Extended by Reg. VII. of 1817 to 4 rupees.

The magistrate was to appoint five respectable inhabitants of each mohullah to constitute a punchayet for regulating the rate of assessment, and appointing the chokeydars, subject to the approval of the magistrate. The punchayet having prepared a table of assessment and of persons assessed, were to submit the same to the magistrate for his final approval, subject to such amendments as might appear to him necessary, on consideration of any complaints or representations that might be preferred to him. The rates of assessment finally adjusted were to be exposed to view for general information every year. The magistrates were authorized, in certain cases, to refer the rates for revision and amendment to the punchayet, in the course of the year for which they had been fixed.

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A respectable and intelligent native was to be selected and appointed by the magistrate, whose duty it should be to prepare from the lists a book, which the magistrate was to sign, and which should contain the names of each person assessed, the amount payable by each, and the names and number of chokeydars in each mohullah. On the first of each month the person appointed by the magistrate was to collect the amount from each person assessed, returning to the magistrate the names of defaulters. The chokeydars were to be paid on the last day of the month, in the presence of the magistrate. The magistrate was to summons reported defaulters; and if the amount which should be found on inquiry to be due was not immediately paid, he was to issue a warrant for the distraint and public sale of so much property as should suffice to make good the amount. The buxshee or collector might be punished for corrupt conduct by dismissal from office and imprisonment for six months; and for not refunding undue exactions, might be further imprisoned for six months. Vexatious complaints were to be liable to punishment. Persons refusing to serve as members of the punchayet, without sufficient grounds, were to be liable to a penalty of 50 rupees. In the event of the punchayet refusing to act, the magistrate was to fix the assessment, and to appoint the chokeydars. The duties of the chokeydars were stated, and were the same as set forth in the former Regulations. The chokeydars were declared not removable without the sanction of the magistrate.

Regulation XX.—1817.

Consolidated and amended General Police Regulation.

By this Regulation all the rules which had from time to time been enacted respecting the duties of darogahs and other native officers of police, were reduced, after careful revision, into one Regulation, and arranged under various heads in thirty-four sections. Certain modifications were introduced relative to the enforcing of process, and the duties of native heads of villages, farmers and proprietors of land, in reporting suspicious deaths, and the presence of suspected persons, or prisoners escaped from confinement. Reg. XX. 1817.

The following outline exhibits the chief provisions of this enactment.

The appointment of all police officers was vested in the magistrates.

Each tannah or police station had three native officers, called the *darogah*, the *mohurrir* and the *jamadar*, whose powers were subordinate one to the other, but each inferior officer was required to act in the absence of his superior; they had under their orders *burkundazes* or armed policemen. Police officers at outposts might arrest offenders or suspicious persons without the magistrate's warrant, forwarding them immediately to the tannah station. Detailed registers of all acts and occurrences; diaries of all persons apprehended; and various minute-books of entry were required to be kept at each tannah station; and extracts therefrom, and very detailed and accurate reports, all arranged according to the specific directions, and according to forms given in the appendix to this Regulation, were required to be kept at each police station. Provision was made for the speedy and regular transmission, by post and other means, of all communications between the police stations under the several public authorities to whom they were subordinate. Police officers were forbidden to trade; the inferiors were not to be employed by the superiors in private affairs; nor were they to receive money from parties. The darogahs were not permitted to employ professional spies without express permission. Darogahs were not to take cognizance of petty offences, but were to send all complainants in such cases to the magistrates, and were not to admit compromises.

In receiving charges or informations of heinous offences, the police officers were to make local inquiry, and to take notes of the information they might receive; the information of the prosecutor was to be certified on oath, but police officers were not authorized to swear witnesses. The directions for the discharge of this part of their duty in the Regulation are very full and precise. In all cases of murder or unnatural or suspicious death, the darogahs were immediately to hold an inquest on the spot, and to communicate the result to the magistrate; they were to render all necessary assistance to wounded persons, and to endeavour to find out, and to trace the offenders. Ample directions are also given in the Regulation, respecting the inquiries to be made regarding gang robbery. Particular points to which the above inquiries are to be directed are minutely detailed. Houses were not to be searched for stolen property except under the warrant of a magistrate, or on very specific information in writing, particularizing the missing goods, and the place where they were supposed to be concealed. A commission of ten per cent. was granted to darogahs on all stolen property recovered by them. Police officers were to search the houses of persons accused of counterfeiting the coin.

Detachments of police officers were to attend at fairs and festivals, and were also required to disperse rioters. Darogahs were authorized to take the voluntary confessions of prisoners who should be disposed to make them. Such confessions were to be attested by the signatures of at least three subscribing witnesses, being persons unconnected with

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the police. Police officers were declared subject to exemplary punishment, if they held out threats or promises to lead a prisoner to confess. Police officers were permitted to make use of the stocks for securing the persons of robbers or murderers, or other persons of dangerous character or disorderly behaviour, or prisoners who had escaped from custody, and to forward them with all due expedition to the magistrate; but such confinement was only to take place during the night. Police officers might also use hand-cuffs for the purpose of forwarding heinous criminals with safety. Darogahs were strictly forbidden to detain prisoners beyond the time indispensably necessary to make the prescribed inquiries, and in no case for more than forty-eight hours.

On receiving information of suspicious characters, the darogahs were to make all necessary inquiries, and if requisite, were to apprehend and send them to a magistrate. Persons of bad character, when liberated from prison, were to be sent to the tannah of the district in which they resided, and the head men and watchers of the village were to be desired to watch their conduct, and to aid them in procuring an honest livelihood. The head men of the village were to be required to give notice, if the parties so under surveillance should absent themselves from the village without cause, or for bad associations, or cease to work for a livelihood. If the village officers neglected so to do, and the suspected person were afterwards convicted of a capital offence, the village officers would be liable to a fine of 100 rupees each, commutable to a month's imprisonment.

A register was to be kept at the police station of all village watchmen, who were ordinarily subject to the orders of the darogah; such as should reside within two miles of the tannah station were to report daily the occurrences in their respective villages during the preceding twenty-four hours; those residing within six miles were to report twice a week, and those at a greater distance once a week or fortnight, as the darogah might direct; the due transmission of all such reports was to be recorded in the diaries. The village watchmen were to perform all the duties of the inferior police officers, in the discovery and apprehension of offenders, Darogahs were allowed, under certain restrictions, to follow and apprehend offenders in the limits of adjoining tannahs. The Regulation contains a great variety of rules regarding the service of process, the punishment of persons resisting, and the apprehension of those evading it. The property of landholders resisting process was declared liable to confiscation, subject to the confirmation of Government; and the property of persons absconding was declared liable to attachment, with a view of compelling their appearance; and in the event of the non-appearance of the owner, it was declared liable to be sold for payment of fines which might be imposed.

The killing or wounding proclaimed offenders who should resist process was declared justifiable homicide.

Darogahs were empowered to afford assistance to landholders distraining for rent, when there might be violent resistance or concealment of property. They were also to assist the officers of revenue in distraining for arrears of the abkarry or excise revenue.

Discretion was vested in the darogahs, to exempt persons employed in the public establishments of the commercial Salt and Opium departments of the Government from attendance during the manufacturing seasons, reporting the grounds of such exemption to the magistrate.

Police officers were also to assist the officers in the Salt and Opium department, in the seizure of smuggled salt and opium.

Police were to apprehend persons not in the military or civil employment of the Company, wearing military uniforms or official badges; also to prevent nuisances and encroachment on the road, and to secure and send to the magistrate all insane persons. Darogahs were to report the arrival of Europeans proposing to settle within their limits. They were also to afford protection to the public treasure when passing through their districts, and likewise to private treasure.

Copies of this Regulation were to be furnished to all head police officers, and copies or extracts to zemindars and landholders; and darogahs were admonished to take all opportunities to make known to landholders and inhabitants their duties in aid of the police, and for the maintenance of the public peace.

Regulation XII.—1818.

Suspension of Arrest.

Reg. XII. 1818.

By this Regulation a discretionary power was vested in police officers to suspend under certain circumstances the arrest of persons accused, as in the case of the extreme youth of the offender or the previous respectability of his character, or for the preservation of the honour of families, when the offender might be nearly connected with the party who had suffered the injury: in such cases the police officer was to report the circumstances to the magistrate for his orders, who would exercise a discreet judgment on the case.

Regulation VI.—1819.

Public Ferries.

Reg. VI. 1819.

By this Regulation the public ferries, (which were defined to be such as should be situated at or near the chief stations of magistrates, or as should intersect the chief military routes or other much frequented roads, or such as from special considerations might be declared by the Government to be public ferries) were placed under the immediate control of the magistrates. The general objects of this arrangement were stated to be, the maintenance

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tenance of an efficient police, the safety and convenience of travellers, the facility of commercial intercourse, and the expeditious transport of troops.

The magistrates were to provide commodious boats, and to fix the rates of toll so as to bear lightly on the poorer classes of the community, and leave a fair profit to the person in immediate charge of the ferry. No collections were to be taken on account of the Government from the proceeds of any ferry, until these benefits should have been fully secured; after which any surplus collection was to be applied solely to the furtherance of similar objects, such as the repair of roads, bridges, &c.

Lists of ferries declared public were to be annually certified by the magistrates to the superintendents of police; the magistrates were not to interfere with private ferries, except in cases of individuals being drowned, or property lost or damaged in consequence of the overloading of the private ferry boat, or from its being in bad repair, in which cases the magistrate might punish the ferryman, by imprisonment not longer than six months, or a fine not exceeding 200 rupees.

Regulation III.—1821.

Arrest of Suspicious Gangs.

Reg. III. 1821.

By this Regulation power was granted to native officers of police to detain persons travelling in bodies through their jurisdictions, or assembling therein under circumstances leading to the suspicion of their being subjects of foreign states, assuming fictitious characters, for the purpose of committing robberies or other crimes in the British territories. The principal inhabitants of villages, landholders, &c. were required to give the earliest intimation of such assemblages of persons to the magistrates.

Regulation V.—1822.

Apprehension of Proclaimed Dacoits.

Reg. V. 1822.

This Regulation was enacted in modification of the Rules in Regulation IX. of 1808, which enacted that proclaimed dacoits ,not surrendering themselves within the period fixed by the proclamation, should be presumed guilty of dacoity; and, on proof of the contumacy only, should be sentenced to imprisonment and transportation for life. Under the operation of those rules, persons had been sentenced to that punishment, who were justly amenable to a capital sentence, on account of the dacoity having been attended by murder. To remedy this defect in the law as it stood, the present Regulation enacted, that when a proclaimed dacoit should be apprehended after the expiration of the time limited in the proclamation, it should be determined by the superintendent of police and the magistrate, in communication together, whether the prisoner should be tried for the contumacy, or for the crime for which he had been proclaimed. If he were tried for the contumacy and acquitted, he might be afterwards tried for the crime for which he had been proclaimed; but if he were acquitted of the crime, he was not to be tried for the contumacy.

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MISCELLANEOUS CRIMINAL REGULATIONS.

Regulation XXI.—1795.

Superstitious Practices in Benares.

Reg. XXI. 1795. (F.)

This Regulation was enacted for the purpose of checking three species of offences, the commission of which had its origin in the religious prejudices of natives, perverted to the impeding of the course of justice, or causing the death of innocent persons.

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The first offence is one stated to have been chiefly practised in the province of Benares, where the persons of Brahmins were held in the highest reverence, and reputed to be inviolable. Whenever any process from the judicial or fiscal authorities was to be executed upon them, they threatened, and sometimes executed, personal violence on themselves, occasionally extending to suicide, or brought forward others of their family or tribe, threatening to wound or put them to death, if the officer charged with the process should approach too near. These threats were not unfrequently carried into execution, the victims themselves acquiescing, under a notion that after death they should become the tormentors of those who were the occasion of their being sacrificed.

Koorhs.

One particular mode of offence was constructing a circular enclosure, called a "Koorh," in which they raised a pile of combustibles, and placed within the circle an old woman, who was to be destroyed by the burning of the pile, on the approach of any person to exercise coercion over the constructors of the koorh. The following proceeding was directed by the Regulation to be adopted in the cases above mentioned. Upon information being given to a magistrate of a Brahmin being prepared to resist the service of process, by placing persons within a koorh, on the officers passing the boundaries of which the persons placed within it for the purpose were either to be wounded or killed, the magistrate was to cause a written notice to be served, by a Brahmin, upon the offender, warning him to abandon the intention, and desist from his preparations. If the offender failed to obey this notice, a warrant was to be issued for his apprehension, which was to be executed upon him by a Mahomedan. When the person charged was brought up before the magistrate, the proceedings against him were to conform to the general rules for bringing offenders to trial before the court of circuit. Principals were to be committed, but bail might be taken for accomplices. The Mahomedan law not being applicable to such cases, the court, if they were of opinion that the charge was proved, were to sentence principals to the payment of a fine, equal to their income for one year, and accessaries to a fine equal to their income for a quarter of a year; and they were to be imprisoned until the fine was paid, or security given for the payment. They were further to be confined until they should give security not to offend in like manner again. If there was loss of life by carrying into execution the threats set forth, then the Brahmin who might have constructed the enclosure, and the persons who might have set fire to the combustibles in the enclosure, were to be sentenced to death; and such sentence was to be pronounced upon them by the court of circuit. But, in as much as it was declared by Regulation XVI. 1795, enacted for the trial of persons charged with crimes or misdemeanors in the province of Benares, that no Brahmin should be punished with death, but in lieu thereof should be sentenced by the Nizamut Adawlut to transportation, the sentence of death was not to be executed, but the case was to be referred to the Nizamut Adawlut, who, if they approved of the condemnation, would order the offender to be conveyed to Calcutta, to be thence transported for life.

For killing their women or children, Brahmins were to be transported for life, their families were to be banished from the province of Benares and the Company's territories, and their estates to be forfeited and disposed of as the Government should think fit; and for wounding them, were to be sentenced to temporary transportation.

Dhurna.

The second offence this Regulation was intended to check was that called Dhurna, which consists in a person taking post at the door of another, frequently armed with some offensive weapon, or with poison, for the purpose of realizing some supposed claim, recovering a debt, or extorting a donation. According to the received opinions on the subject, it was understood that the besetter was to remain fasting in the place, until his object should be obtained, and that it was equally incumbent on the party beset to abstain from nourishment until the other should be satisfied; during all which time ingress and egress from the house could not be attempted, except at the risk of the besetter wounding himself with the weapon, or swallowing the poison with which he had come provided. The Regulation enacted, that persons charged with this crime should be tried before the court of circuit, who were to refer the evidence taken for the opinion of their Hindoo law officers, whether the facts proved amounted to the crime of dhurna, according to the Shaster; if the bewusta decided in the affirmative, the court were to sentence the prisoner to forfeit all claim to the matter, for the realization of which the misdemeanor was committed, and to be expelled from the province of Benares.

In the event of the bewusta of the pundit declaring the offence not to have been completed, according to the construction of Hindoo law; if the court of circuit should consider that it had in substance been committed, they were to require the prisoner to give a written obligation or engagement, that if he should repeat any act of actual dhurna, or equivalent to that offence, he should suffer the full penalty.

Infanticide.

The third offence contemplated in this Regulation was that prevalent among a tribe of Raj Koomars, of causing their female infants to be starved to death. That tribe having, in December 1789, bound themselves to discontinue the practice, the Regulation enacted, that any Raj Koomer guilty of such crime should be tried for that as for any other murder, before the court of circuit, and dealt with accordingly.

Regulation V.—1797.

Punishment of Dhurna.

Reg. V. 1797. (Rescinded by Reg. VII. 1820.)

The criminal practice known by the name of dhurna, a particular description of which is given in Regulation XXI. 1795, as frequently occurring in the province of Benares, having been found to prevail in other places, the present Regulation was enacted to provide for

for its punishment in all parts of Bengal, Behar and Orissa. It directed that proclamation should be issued, notifying the penalties to be incurred by the commission of the crime, and it enacted the same penalties as those specified in the Benares Regulation, with the exception of banishment from that province, for which it substituted a fine not exceeding 1,000 rupees, and in aggravated cases confinement in the civil gaol for a period not exceeding one year.—*See* Reg. VII. 1820, under head (D.) p. 726.

Regulation IV.—1799.

Trials for Rebellion.

It being deemed expedient, in certain cases, that persons charged with treason, rebellion or other offences against the state, should be brought to immediate trial before the ordinary courts, or before a special tribunal to be convened for the occasion, this Regulation authorized the executive Government to order, that persons charged with such offences should be tried either before all the judges of a court of circuit, or before a court to be specially appointed for that purpose. The sentences in such cases, whether of acquittal or conviction, were to be reported to the Nizamut Adawlut, who were to submit them for the final orders of the Government, and to communicate those orders to the court who had tried the prisoners. Reg. IV. 1799.

Regulation VI.—1802.

Prohibiting Sacrifices of Life at Saugur.

This Regulation was enacted to put an end to the practice which prevailed at the island of Saugur, and at several places on the Ganges, of sacrificing children by exposing them to be drowned or devoured by sharks. It declared, that this practice was not sanctioned by the Hindoo law; and it enacted, that in cases in which death ensued, the perpetrators of the act should be deemed guilty of murder; or if the child were rescued or escaped, the offenders should be held to have committed a high misdemeanor. In cases of conviction the trials were to be referred to the Nizamut Adawlut, who were to pass sentence thereon, according to the character of the act, whatever might be the futwa of the law officer. Reg. VI. 1802.

Regulation X.—1804.

Martial Law.

This Regulation authorized the Governor-general in Council, in times of rebellion, to declare martial law within any part of the British territories, in order to the immediate punishment of persons owing allegiance to the British Government who should be found in the commission of rebellion, or aiding the enemies of the Government. Reg. X. 1804.

Regulation III.—1809.

Military Police in Bazars—Camp Followers subject to Military Courts.

By this Regulation, the charge of the police in cantonments and military bazars was vested in the officers commanding the troops; and by Regulation XX. 1810, retainers of the army and camp followers were made subject to trial by courts martial, according to military law, as well for petty offences as for suits for civil debt, not exceeding 200 rupees, subject, however, to certain rules of registry. Reg. III. 1809. Reg. XX. 1810.

By Regulation V. 1828, power was given to zillah courts to execute to a limited extent the awards of such military courts. Reg. V. 1828.

Regulation X.—1811.

Importation of Slaves prohibited.

The preamble recited that instances had occurred of the importation of slaves from foreign countries into the British territories, and such traffic being inconsistent with the principles on which the administration of those territories was conducted, the importation of slaves was strictly prohibited by this Regulation, whether by land or sea, into any of the places dependent on the Presidency of Fort William. Persons infringing this prohibition were declared liable to prosecution before the criminal courts, and, on conviction, to imprisonment for six months, and fine not exceeding 200 rupees, commutable to further imprisonment for six months. Reg. X. 1811.

The captains of vessels not in the Company's service coming to Calcutta were, previously to landing their cargo, to execute a bond in a prescribed form, rendering themselves liable to a penalty of 5,000 rupees in the event of their disposing of any persons as slaves.

Regulation XI.—1812.

For Removal and Punishment of Emigrants from Foreign States.

The immediate cause of the enactment of the present Regulation, as stated in the preamble, was the misconduct of considerable bodies of persons who, having emigrated from Arracan and established themselves on the British frontiers in the district of Chittagong, contiguous to that country, had committed outrages in their former country of Arracan, and had received assistance and co-operation from inhabitants of the British territories. The object of the Regulation was to enable the Government in this and similar cases to remove such emigrants and their descendants from the frontiers, and to provide for the trial of persons committing Reg. XI. 1812.

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committing or aiding in the commission of such offences. The Regulation accordingly granted such power of removal to the Governor-general in Council; and it further provided that whenever any of the said emigrants should be found to have abused the protection afforded them, by attempting to excite disturbances in the state from which they or their ancestors had emigrated, they should be brought to trial for that offence before the court of circuit, and, on conviction, be sentenced to imprisonment for seven years. Any persons, whether native British subjects or aliens, who should furnish such emigrants with men, money or arms, or should otherwise aid them in the prosecution of their criminal designs, were declared liable to the like punishment.

Regulation III.—1818.

Arrest of State Offenders.

Reg. III. 1818.

This Regulation was passed to enable the Governor-general in Council to place persons under restraint without any judicial proceeding, whenever such a measure might be requisite for reasons of state, having reference to the due maintenance of the alliances formed between the British Government and foreign powers, the preservation of tranquillity in the territories of native princes entitled to its protection, and the security of the British dominions from foreign hostility. It also empowered the Government, for similar reasons, to attach the estates and lands of zemindars and other proprietors. The Regulation provided that the warrant for the confinement of a state prisoner should issue under the authority of the Governor-general in Council, and be signed by one of the secretaries to Government; that it should be addressed to such person as the Governor might choose, who should report half yearly on the conduct and health of the prisoner. If the prisoner were in the custody of the judicial authorities, he was to be visited by the judge of the circuit; if in other custody, the Governor in Council would direct who should visit him. Every representation which a state prisoner might be desirous of submitting to Government was to be immediately forwarded, accompanied by such remarks as the officer having the custody of him might deem necessary.

Whenever the Governor-general in Council should direct the attachment of lands, they were to be placed under the management of the revenue officers of Government, and were not to be sold in execution of decrees of the civil courts, or for the realization of fines or otherwise during the period of their attachment.

Regulation XX.—1825.

European British Soldiers amenable in certain Cases to Courts Martial for heinous Crimes.

Reg. XX. 1825.

This Regulation was enacted for the guidance of magistrates in the execution of the provisions of the Act of the 4 Geo. IV. c. 81, which rendered European British officers and soldiers amenable to courts martial, for crimes committed at a distance of more than 120 miles from the Presidency.

Regulation XVII. 1829.

Prohibition of Suttees.

Reg. XVII. 1829.

This Regulation was enacted to put an end to the practice of widows being burnt or buried alive on the death of their husbands. The preamble declared that this practice was not enjoined by the religion of the Hindoos as an imperative duty, and was not observed by a vast majority of that people throughout India; a life of purity and retirement on the part of the widow being more especially and preferably inculcated; that in places where it was most frequent, it had been in many instances attended with acts of atrocity, shocking to the Hindoos themselves, and in their eyes wicked and unlawful. Under these considerations, the present Regulation declared the practice to be illegal, and punishable by the criminal courts. All landholders, village officers and revenue officers were declared specially accountable for giving immediate information of any such intended sacrifice; and might be fined by a magistrate for default, in a sum not exceeding 200 rupees, commutable to imprisonment for not more than six months. On receiving intelligence of an intended sacrifice, the darogah or his deputy was to proceed to the spot, attended by Hindoo peons, and was to endeavour to dissuade the parties from persisting in their intention.

If the advice was not followed, the police officers were to apprehend the parties and their abettors, and to forward them to the magistrate. In cases of sacrifice actually performed, police officers were to institute inquiries, as in other cases of unnatural death, and to report the particulars for the information of the magistrate, who was to take the necessary measures for bringing the parties to trial before the court of circuit. All persons convicted of aiding and abetting in the sacrifice of a Hindoo widow, whether voluntary on her part or not, were declared guilty of culpable homicide, and punishable by fine and imprisonment, at the discretion of the court of circuit. Persons convicted of using violence or compulsion, or of having assisted in the sacrifice of a Hindoo widow while in a state of intoxication or stupefaction, or otherwise prevented from the exercise of her free will, might be sentenced to death by the Nizamut Adawlut.

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(3.)

ABSTRACT of the REGULATIONS of the *Bengal* Government for the Administration of Affairs in the REVENUE DEPARTMENT, arranged under appropriate Heads.

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(A.)

ASSESSMENT of the REVENUE—RIGHTS of ZEMINDARS and TENANTS—POWERS and DUTIES of the REVENUE OFFICERS of GOVERNMENT, deliberative and executive.

REGULATION I.—1793.

The Permanency of the Assessment declared.

Reg. I. 1793. (A.)

THIS enactment promulgated in the form* of a Regulation the several articles of the Proclamation, dated 23d March 1793, addressed to the zemindars, independent talookdars, and other "actual proprietors of land paying revenue to Government, in the provinces of Bengal, Behar and Orissa." That Proclamation had notified to them that the sanction of the Court of Directors of the East India Company had been given to the permanency of the decennial settlement of the revenue, which had been made under certain Rules dated the 18th September 1789, 25th November 1789, and 10th February 1790; and that in consequence the assessment then fixed would be continued, and would remain unalterable to them, their heirs and lawful successors.

Certain proprietors not having agreed to the terms of the assessment proposed to them under the Regulations of 1789 and 1790, their lands had been assumed by the Government, and

* As prescribed by Regulation XLI. 1793.

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(3.) Regulations for the Administration of Revenue Affairs. (A.)

and in some cases had been held khas, (*i. e.* under the administration and management of the revenue officers of Government,) and in others had been let out in farm. The Proclamation notified to the proprietors so circumstanced, that such lands as were under Government management would be restored to them upon their agreeing to the assessment proposed; and that such as had been let to farm would be restored at the expiration of the leases, (but not before, except with the voluntary consent of the farmers,) on the proprietors agreeing to the payment of the assessment that might be required of them, after which the said proprietors and their heirs would hold the lands without increase to that assessment for ever.

Lands belonging to the Government, which might be transferred to individuals, would be held by them and their heirs for ever at the assessment fixed at the time of such transfer.

The Proclamation went on to declare, that it was well known to all actual proprietors of land in Bengal, Behar and Orissa, that the amount of the public assessment upon the lands had never until that time been fixed, "but that, according to established usage and custom, the rulers of those provinces had from time to time demanded an increase of assessment;" in order to obtain which, not only were frequent investigations made into the profits of the estates, but the proprietors were often removed or suspended, and either their estates were let in farm, or officers were appointed "on the part of the Government to collect the assessment immediately from the ryots." The declaration now made of the permanency of the assessment had in view the future ease and happiness of the people; the orders fixing the amount of the assessment were to be considered as irrevocable by any future administration in India, and the Government trusted that the proprietors would be duly sensible of the advantages thus conferred upon them, and would exert themselves in the cultivation of their lands, in the certainty of enjoying the fruits of their industry, since no demand would be made upon them, nor any increase of the public assessment take place in consequence of such improvement.

The Proclamation then pointed out the duties of the proprietors of land, which were, to discharge the revenues without delay or evasion, to conduct themselves with good faith and moderation towards their dependent talookdars and ryots, and to enjoin the strictest adherence to the same principles in the persons whom they might appoint to collect their rents from those dependent talookdars and ryots. It further notified, that no claims or remissions on account of drought, inundation, or other calamity of the season, would for the future be attended to; but that on failure in the punctual discharge of the revenue assessed, "a sale of the whole of the lands of the defaulter, or such portion of them as might be sufficient to make good the arrear, would positively and invariably take place."

The Proclamation proceeded to make the following declarations:—

First. That the Government reserved to itself the right of enacting Regulations* "for the protection and welfare of the dependent talookdars, ryots and other cultivators of the soil;" and that no proprietor should be entitled on that account to make any objection to the discharge of the fixed assessment.

Second. That the Government having before directed the abolition of the Sayer† duties, formerly collected by the landholders, and having granted to them a full compensation on that account, it should be competent to the Government to re-establish Sayer collections, or any other internal duties, on their own account, and to appoint officers to collect the same without any right of participation or claim to further remission accruing to such landholders. 28 July 1790

Thirdly. That the Government reserved to themselves the right of imposing such assessment as it might deem equitable on all lands which had been held exempt from the payment of revenue under illegal or invalid grants; and that the assessments which might be so imposed should beloug exclusively to the Government.

Fourthly. That the fixed assessment had been made exclusively of any allowances made for the support of police establishments, and of the produce of any lands which had been appropriated to that purpose; and that inasmuch as the Government had exonerated proprietors from the charge of keeping the peace, and had appointed police officers to that duty, they reserved to themselves the option of resuming such allowances, and the produce of such lands. But the Proclamation at the same time declared that the allowances or produce of lands above mentioned, whenever they should be resumed, would be exclusively appropriated to the expenses of the police, and that the collectors would be instructed not to add the amount or value thereof to the assessment of the proprietors, but to collect the same from them separately.

Fifthly. That the lands belonging to proprietors disqualified by reason of minority or other cause from the management of their own estates, and on that account placed under the management of the Court of Wards, should not be saleable for any arrears that might accrue during their management by the Court of Wards. *See* Reg. X. 1793.

The

* As an example of the exercise of this right, it was provided by Sect. 52, Reg. VIII. 1793, that every engagement of a proprietor with an under farmer should be specific as to the amount payable by the latter, and that all payments received in excess of such engagements should be deemed extortion, and be repayable with a penalty. Several other enactments were subsequently passed of a like character.—*See* also Reg. VIII. 1819, which defined the relative rights of zemindars and putnee talookdars.

† Inland duties, customs, tolls, &c.

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(A.)

The Proclamation then declared the right of all actual proprietors of land "to transfer to whomsoever they might think proper, by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their respective estates, without applying to Government for their sanction to the transfer, and that all such transfers would be held valid, provided they should be conformable to the law of the parties, whether Mahommedan or Hindoo, and not repugnant to any regulation of the British Government." No such transfers, however, were to affect the responsibility of the whole estate to satisfy the claims of Government, unless the transfer were duly registered in the office of the collector, according to rules prescribed in that respect.

The Proclamation next declared the principles on which, in the event of an estate requiring to be subdivided, the amount of the assessment which had been fixed upon the whole should be distributed on the several portions. The value of an estate was defined to be, the difference between the amount of the fixed annual assessment payable thereon to the Government, and the total amount of the *produce* of the estate receivable by the proprietor, after deducting the charges of management. Estates might be subject to transfer, either wholly or in part, under any of the following circumstances: first, when sold entire, or in portions, on account of arrear of revenue, or in satisfaction of decrees of court; secondly, when transferred wholly or in portions by the proprietors by private sale, gift or otherwise; thirdly, on the division of joint estates among several coparceners. It was declared that all transfers or divisions must be registered in the books of the collector or other public officer appointed for that purpose, after which the possessor of each share must enter into a separate engagement for the payment of the fixed assessment upon such share, and would thenceforward be deemed an actual proprietor. It was further declared, that no private transfer or subdivision, if not so registered, would be recognized by the officers of Government, but that the assessment would continue to be demanded entirely from the original proprietor. In all the above cases of division, the principle on which the revenue was to be assessed was declared to be, that the *assessment* upon each divided portion was to bear the same proportion to the *produce* of such subdivided portion as the *assessment* of the whole had borne to the *produce* of the whole; and the assessment so regulated was to remain fixed upon those portions for ever.

The Proclamation next proceeded to declare the following rules for the assessment (or apportionment of the assessment on transfer or subdivision) of lands which having been assumed by the Government, on account of the proprietors not having agreed to the terms of the assessment proposed to them under the previous regulations for the decennial settlement, were, at the date of the Proclamation, either under the administration of the revenue officers of Government, or let to farm:—

1st. Whenever lands so circumstanced might be put up to sale in satisfaction of a decree of a court of justice, they were to be "disposed of at whatever assessment the Governor in Council should deem equitable," and such assessment should be permanent. In the case of lands let to farm, the purchaser was to receive during the unexpired term of the lease the allowance which the former proprietor had been permitted to receive in consideration of his proprietary right (malikanah); and the purchaser was to engage to pay, at the expiration of the lease (when he would enter on the possession of his purchase), such assessment as the Government might have fixed at the time of sale. The amount of the "malikanah" and of the future assessment were to be declared at the time of sale, and such assessment was to be permanent for ever.

2d. If a proprietor whose lands were held khas, or let to farm, in consequence of his having declined to accede to the proposed assessment, should transfer the whole or part of his lands while so held khas or let to farm, the person to whom the transfer might be made was to receive the "malikanah" allowed to the transferring proprietor, and was, in all respects, to stand in the same predicament as that proprietor.

3d. In the event of a division of lands taking place while held khas or let to farm, as above stated, the holders of the divided shares were to stand in the same predicament in respect to their shares as the transferring proprietor.

Regulation II.—1793.

Abolition of Revenue Courts—Powers and Duties of Collectors—Powers and Duties of Board of Revenue.

Reg. II. 1793.

The preamble to this Regulation began by declaring the importance of affording protection to the agriculture of the country, which was the source of its commercial prosperity, since the great mass of the population were dependent upon it not only for subsistence, but for employment. Experience had shown that droughts and inundations were always followed by famine and the widest spreading calamities; and these evils could not be abated until the proprietors and cultivators of the land should have the means of increasing the number of reservoirs, embankments, and other artificial works for the preservation and direction of the waters. To effect these improvements in agriculture had ever been one of the primary objects of the British Administration in its arrangements for the internal government of the Indian provinces. The two fundamental measures which it had with these views adopted, were to declare "the property in the soil to be vested in the landholders, and to fix for ever the revenue payable to Government from each estate. These measures had at once rendered it the interest of the proprietors to improve their estates, and had given them the means of raising

raising the funds necessary for that purpose. The property in the soil had never before been formally declared to be vested in the landholders; nor had they before been allowed to transfer such rights as they possessed, or to raise money upon the credit of their tenures, without the previous sanction of Government."

Under former administrations the public demand had been liable to frequent variation at the discretion of Government. The amount of assessment of every estate had been fixed upon estimates formed by the public officers of the aggregate of the rents payable by the ryots or tenants of such estate, for each begah of land in cultivation; of which aggregate, after deducting the expenses of collection, $\frac{10}{11}$ were usually considered as the right of the public, and the remainder the share of the landholder. Refusal by the landholder to pay the sum required of him was followed by his removal from the management of his lands, and the public dues were either let in farm or collected by an officer of Government; and the above-mentioned share* of the landholder, or such sum as special custom or the orders of Government might have fixed was paid to him by the farmer, or from the public treasury. The extension of cultivation being thus productive always of a heavier assessment, and even the possession of property being uncertain, the hereditary landholder had little inducement to improve his estate, and monied men had no encouragement to embark their capital in the purchase or improvement of land. The same causes, therefore, which had prevented the improvement of land, had depreciated its value; these evils it was the object of the permanent settlement to remove. The preamble then proceeded to state, that besides the measures which had been provided, as before stated, for the security of tenure and the extension of cultivation, there were others equally essential to the attainment of the important objects in view. These related to the administration of justice on questions between the Government and the landholders respecting the assessment and collection of the public revenue, and on disputed points between proprietors of land and the ryots, and others who paid to them. All such questions had until that time been cognizable in revenue courts, in which the collectors of the revenue presided, from whose decision an appeal lay to the Board of Revenue, and eventually to the Government. It was observed in the preamble, that the proprietors could never consider the privileges conferred upon them as secure whilst the revenue officers were invested with these judicial powers. Exclusively of the objections to revenue courts, arising from their irregular, summary, and often *ex parte* proceedings, and from the collectors being obliged to suspend the exercise of their judicial functions whenever they should be found to interfere with their financial duties, it was obvious that if the Regulations for assessing and collecting the public revenue should be infringed, the revenue officers themselves must be the aggressors, and that individuals who had been wronged by them in one capacity could not hope to obtain redress from them in another. Their financial occupations equally disqualified them for administering the laws between the proprietors of land and their tenants. It was therefore necesssary, in order to give due security to the rights of landed property, that the Government should divest itself of the power of infringing, in its executive capacity, the privileges which in its legislative it had conferred on the landholders; that the revenue officers should be deprived of their judicial powers; and that all financial questions should be subjected to the cognizance of impartial judicial tribunals, and that the fiscal officers of Government should be amenable to the courts of judicature for acts done by them in breach of the Regulations. When this should be effected, no power would exist in the country by which the rights vested in the landholders by the Regulations could be infringed, or the value of landed property be injured, and land would in consequence necessarily become the most desirable of all property.

Public Officers.

The enacting part of the Regulation began with the abolition of the Revenue Courts, or Mâl Adâlats, and then proceeded to define the powers which should thereafter be exercisable by the local officers of land revenue, and by the controlling Board at the Presidency. It declared the collection of the revenue to be committed to European covenanted servants of the Company, to be styled "Collectors of the Revenue;" and it stated the duties to be performed by them to consist in the collection and apportionment of the assessment; in prosecuting claims on behalf of Government; administering the estates of minors, and other disqualified landholders, under the direction of the Court of Wards; and generally in performing such other duties as should be prescribed by the Regulations. They were further to conform to such special orders as they should receive from the Board of Revenue, or other duly authorized public officers. The Regulation further declared the duties of the Dewan and native officers of the collectors; and it directed that native treasurers should give sufficient security for the faithful discharge of their functions. Collectors and their public native officers were forbidden to purchase lands at public sale. Europeans were not to be allowed to hold lands in farm, nor to be securities for farmers or tenants.

Collectors.

Board of Revenue.

The Regulation next detailed the powers of the Board of Revenue, in whom it vested the superintendence of the settlement and collection of the land revenue, and all other matters entrusted to the collectors. The Board were empowered to summon collectors to the Presidency to explain their conduct, and were vested with authority to fine them, to the extent of one month's salary. The duties of the Board and the powers of the President, and the mode in which business was to be transacted, were fully detailed in this Regulation.

REGULATION

* This is the "Malikanah."

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(3.) Regulations for the Administration of Revenue Affairs.

Regulation VIII.—1793.

The Principles on which the permanent Assessment was formed—the Classes of Persons with whom the Government engaged, and their Relation to others holding Interests deemed subordinate.

Reg. VIII. 1793. (A.)

Regulation I. 1793 had declared the permanency of the assessment which had been made under the Regulations for the previous decennial settlement. The original Regulations relative to that settlement had been passed, for Bengal, Behar and Orissa respectively, on the 18th September, and 25th November 1789, and 10th of February 1790; but having undergone considerable alterations during the progress of the arrangement, an amended code of rules had been promulgated on the 23d November 1791. The present Regulation re-enacted the last-mentioned code, adapting the rules to the new principle of the separation of the revenue from the judicial functions. It therefore exhibited both the principles on which the permanent settlement was effected, and those which were to govern future arrangements with successors to the zemindary rights.

The Regulation began by declaring the decennial settlements in Bengal, Behar and Orissa (which were eventually declared permanent), to have commenced with the local year 1197, (*i. e.* Behar and Orissa, September 1789,—Bengal, April 1790,) and it proceeded to declare that the several classes of persons with whom the settlement was made (with certain exceptions), viz. zemindars, independent talookdars, or chowdries, were to be deemed "actual proprietors of the soil."

Talookdars.

Talookdars, that is, persons holding talooks (which were originally subdivisions or portions of zemindaries,) were to be considered as either "independent" or "dependent."

Independent Talookdars.

The talookdars who were to be considered independent, and therefore "actual proprietors," were declared to be—1st. Those who had obtained their talooks by gift or sale from the proprietor, and possessed deeds making over to them the proprietor's rights therein, though they should have actually continued to pay their revenues through the original zemindar. 2d. Those whose talooks were formed before the actual proprietors succeeded to the zemindaries of which their talooks formed part. 3d. Those whose land had never been the property of the zemindar through whom their revenues were paid. 4th. Those who had purchased or inherited talooks of the two last descriptions.

Dependent Talookdars.

Leaseholders.

Junglebhoory.

The following talookdars were to be considered "dependent," and to continue the payment of their assessment through the zemindar:—1st. Those whose title-deeds contained a stipulation that they should pay their revenue through the zemindar. 2d. Those whose title-deeds did not contain an actual transfer of the property in the soil, but whose tenure was subject to the performance of stipulated conditions. These were to be considered as "leaseholders" only. 3d. Those whose lands were held on what is denominated junglebhoory tenure, that is to say, on condition of clearing away the jungle, and bringing the land into a productive state, with a right to the talookdar and his heirs in perpetuity to dispose of it either by sale or gift, paying no revenue until after a certain term.

Holders of Malguzary Ayma lands.

Talookdars holding malguzary ayma lands, that is, lands granted for charitable purposes, but subject to the payment of a fixed quit revenue, were to be deemed independent talookdars, unless their lands had been granted on junglebhoory tenure, in which case they were to be included in the estates to which they stood annexed when the decennial settlement was made.

The Regulation then declared, that the duty of the collector in the classification of talooks as "dependent" or "independent," was limited to such inquiry and examination as would enable him to ascertain to which of the above classes they should respectively belong; and that it was no part of his duty to examine into the legal title to possession. When the collector should have acquainted the parties with his decision, a zemindar dissatisfied with a separation which he had declared, or a talookdar dissatisfied that he was not declared entitled to separation, might sue in the civil court for the establishment of the right claimed; and an appeal would lie to the provincial court, and eventually to the Sudder Adawlut.

Mocurrerydars.

The next class of payers of revenue whose tenures were noticed in the Regulation, were mocurrerydars, that is, persons holding permanent leases of lands at fixed assessment; of these leases such as had been granted previously to the Company's accession to the Dewanny, or if granted after, had been confirmed by the Company's government, to persons being actual proprietors, were to continue in force, subject to the final sanction of the Court of Directors. Such as had been granted or confirmed under like circumstances, to persons not being proprietors, were to be continued during the lives of the lessees, and after their deaths were to be resumed, and the settlement was to be made with the actual proprietors of the soil. In all these cases a deduction was to be made from the amount of the mocurrery lease, proportionate to the value of the sayer, which was now resumed or abolished. Mocurrery leases to persons not the actual proprietors, obtained since the Company's accession to the Dewanny, and not confirmed by the British Government, were to be annulled, and the lands resumed, and the settlement to be made with the actual proprietors. If the lessees, however, had held their leases upwards of twelve years before the resumption, they were to receive during their lives the difference between the amount of their leases and the sum at which the settlement might be made with the actual proprietors. These rules were not to apply to persons holding permanent leases from the proprietors themselves, and considered as their lease-tenants.

Disqualified Landholders.

Proprietors being females (with the exception of some competent individuals, who should be declared to be so by the Government,) minors, idiots, or otherwise incapable of managing their

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their lands by reason of natural defects or infirmities, or unworthy of such trust by reason of contumacy or notorious profligacy of character, were not to have the assessment of their estates formed with themselves, but were to be under the management of the Court of Wards; incapacitated persons, however, who held shares only of zemindaries, were to be represented by joint managers.

When an estate belonged to more than one person, the proprietors were jointly to elect a serberakar or manager, with whom the settlement should be made on their behalf; joint proprietors failing so to nominate, the collector was to name a manager to be approved by the Board of Revenue. In cases of mortgage, the settlement was to be made with the party in possession, with a reservation of the rights of the other party. In the cases of absentees or of the proprietor not being discovered, the lands were to be held khas. In cases of disputed property, the settlement was to be made with the party in possession; if neither were in possession, the estate was to be administered by the officers of Government, until the question of title should be settled in a court of justice. In cases of disputed boundaries, the question of right was to be left for decision by the civil court, and the settlement was to be made with each party for the lands in his possession. The allowances of cauzees* and canongoes† were no longer to be paid by the proprietors to those persons, but were to be added to the assessment, and the allowances were to be paid by the collector. The Regulation then declared the sources of revenue formerly received by proprietors, but which were to be excluded from the assets of the zemindary in fixing the permanent assessment. These were, 1st, Duties, taxes, and other collections known under the general denomination of sayer; 2d, Lakheraj lands, whether duly exempted from the payment of revenue or held free without due authority, with the exception of private lands (Nancar) appropriated by actual proprietors of land in Bengal and Orissa for the subsistence of themselves and families; all such lands were to be annexed to the malguzarry‡ estate, and the assessment was to be fixed upon the whole. There were some special exceptions to this rule. The lands held by public officers and private servants in lieu of wages were also to be annexed to the revenue lands.

Sources of Revenue excluded from the Settlement.

Sayer.

Lakheraj lands.

The amount of the assessment of an estate being fixed and sanctioned by the Board of Revenue, if the proprietor should refuse to accept the terms, his lands were to be let in farm or held khas, as the Board should direct; in such event, an allowance was to be made to the proprietor, at the rate of 10 per cent. on the assessment of the estate if let in farm, or on the net amount realized by Government if held khas. Out of the malikanah, provision was to be made for members of the proprietor's family entitled thereto.

Malikanah.

As soon as the settlement should be concluded with the actual proprietors, they were to enter into engagements with their dependent talookdars for the same period as their own engagements with the Government, if the talookdars would consent to pay such amount as the proprietors were entitled to demand of them. Proprietors who had granted mocurrery or istimrary leases of their lands were not to raise the rents of such lessees as had held them for upwards of 12 years, during the lives of those lessees. The proprietors were to deliver a record of the engagements formed with their dependent talookdars to the collector within three months after the conclusion of the settlement.

Pottahs. *See* Reg. IV. 1794.

The engagements before alluded to as existing between the proprietors and the istimrary lessees, though binding on the contracting proprietors, were not to precluge the Government in the event of the estates being taken under the administration of the Government officers, or being let to farm, from assessing such istimrary lessees according to the general rate of the district. Proprietors requiring an increased rent from their dependent talookdars, unless entitled to do so by the conditions of the tenure or by the special custom of the district, were to be subject in a civil action to pay damages equal to double the amount of the exaction.

The next provisions of the Regulation related to the terms of engagement to be entered into between a zemindar and his under farmers for lands not coming within the description of talooks. It was declared competent to proprietors to let such lands in whatever manner they might think proper, subject to the restrictions hereafter specified; but the engagements with the under farmers were to specify the actual amount to be paid. All sums which proprietors might receive in excess of those engagements were to be deemed extortions, recoverable with a penalty of double the amount. The following were the restrictive rules to be imperative on the parties: No person contracting with an actual proprietor for lands or collections was to enter upon them without an amilnamah, or authority in writing from the zemindar. The engagements between the proprietors and the ryots were to include a consolidation, after careful revision, of all cesses and extra assessments, and no new cesses were to be imposed under a penalty of three times the amount.

Engagements between zemindars, and holders under him.

Amilnamah.

The ryots were to receive from the proprietors of land, &c. written specifications, called pottahs, exhibiting the extent of the lands for which they had engaged, and the rents or rates or portion of the crop for which they were answerable, or other terms of their engagement. Each proprietor was to prepare the form of pottah suited to his own zemindary, and to lodge copies of it in the collector's office, in the civil court of the district, and in the principal cutcherries of the estate. Each ryot was entitled to receive a pottah, according to such form; it was declared the duty of the proprietor to tender it, and the right of the ryot to demand it, and the refusal to grant a pottah was declared punishable in the civil court; no farmer, however, was to grant a pottah exceeding the period of his own lease.

Pottahs.

The

* Mahomedan judges. † Provincial registers and accountants.

‡ *i. e.* Paying revenue.

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Putwarry.

(A.)

The next rules regard the office of putwarry or village accountant. The purposes for which these offices were required to be preserved were stated to be, 1st, To facilitate the decision of suits in the courts of judicature between proprietors or farmers and persons paying rent or revenue to them; and, 2d, To enable collectors to procure the necessary information and accounts for allotting the public assessment upon estates that might come to be subdivided; and it was declared that no proprietor who did not contemplate the commission of fraud on the Government or on individuals could object to the rules now enacted. The rules prescribed regarding the appointment of putwarries were as follows:—

Proprietors were to appoint *one* putwarry to each village, except in particular cases in which the Board of Revenue should permit a union of villages. Putwarries were to produce, when required by the court, all accounts, relating to the lands, produce, collection or charges of their respective villages, and to attend collectors when summoned to produce those accounts, for the purpose of enabling them to allot the public revenue on the separate portions of estates which might be subdivided, either on sale or transfer; but collectors were forbidden, under a penalty to summon putwarries for any other purposes. Putwarries were, when required, to verify their accounts on oath, subject to the penalties of perjury. Proprietors or putwarries falsifying accounts were declared amenable to punishment by the criminal courts. Proprietors neglecting to appoint putwarries were to be punishable by fine in the civil courts.

The remaining provisions of the Regulation were of a miscellaneous character, and generally related to details. Landholders and their dependant tenants and ryots were prohibited from taking cognizance of, or interfering in any matters coming within the jurisdiction of the civil or criminal courts.

The Regulation concluded with special rules and directions, as to the mode in which the amount of assessment was to be fixed and adjusted in the provinces of Bengal and Behar, and in Midnapore, a district of Orissa, respectively, so as to make it just and equitable.

Note.—By Regulation I. 1801, it was declared, that the time for applications of dependent talookdars to be made independent under the foregoing provisions should be limited to one year from the date of that Regulation.

Regulation XXVII.—1793.

Resumption by the Government of the Sayer Collections formerly made by Proprietors, and Grant of Compensation to those Persons.

Reg. XXVII. 1793.

It had been declared in Regulation VIII. 1793, that in assessing the land revenue to be paid by proprietors, the duties formerly levied by them under the title of Sayer, were to be excluded, and the collection of them by proprietors prohibited; that compensation* would be made where due, in consideration of the resumption of those duties; and that the Government would reserve to themselves the right of imposing duties of that nature, as might seem proper to them.

The preamble to the present Regulation contained a summary of the measures adopted at different times on this subject, and was as follows:—

The imposition and collection of internal duties have from time immemorial been admitted to be the exclusive privilege of Government, not exercisable by any subject without its express sanction, and consequently it has ever been a well-known law of the country, that no person could establish a gunge, haut or bazaar without authority from the governing power. Grants from the sovereign, or his representative delegating this authority, as well as universal tradition, proved that this right was asserted by the Mahomedan government; and the orders of the honourable Court of Directors, as well as the repeated declarations and promulgations by the British administrations, demonstrate that this right was constantly asserted by the Company. It was, however, judged advisable to leave the exercise of this privilege to the landholders, Government contenting themselves with imposing general Regulations for the prevention of undue exactions, and occasionally interfering to modify or abolish particular imposts as they occurred or were discovered. Experience having at length proved that prohibitory orders for preventing oppression were not attended with the desired effect, it was determined, on the 11th June 1790, to take from the landholders the power of imposing and collecting duties altogether, and to exercise this privilege immediately and exclusively on the part of Government. The consequences of this measure were expected to be the effectual abolition of many vexatious duties on articles of internal manufacture and consumption, as well as on exports and imports, the suppression of many petty monopolies and exclusive privileges which had been secretly continued, to the great prejudice of the lower orders of the people; and, as the natural effects of the reform of these abuses, benefit to trade, and ease to the inhabitants of the country in general. A further consequence expected from the exercise of this privilege was a future opportunity of augmenting the public revenue, in case the exigencies of the Government should render it indispensably necessary, without increasing the assessment on the land. But this was a secondary expectation only; the primary objects intended were those first stated; the promotion of commerce and the general relief of the inhabitants. In the adoption of the above arrangements, the Governor-general in Council had no intention to divest the landholders of any collections they had made, under the

* By Regulation VI. 1811, a period was put to the time for applying for such compensation.

the denomination of sayer, not in reality a duty, but a consideration for the use of ground, shops or other buildings belonging to them. As, however, the rent of warehouses (golahs) and shops (dokans) had in general been received by the officers employed to collect the gunge, haut and bazaar duties, and had frequently been let in farm with them, and as the rent paid for orchards, pasture ground and fisheries had been sometimes included in the sayer, under the denominations of *phulkur*, *bunkur* and *julkur*, the Governor-general in Council thought it necessary to declare expressly, that it was by no means his intention to include in the resumption of the sayer then ordered, the monthly or annual rents paid for ground, or buildings erected thereon of whatever description, or the phulkur, bunkur and julkur; such rents being properly the private right of the proprietors, and in no respect a tax or duty on commodities the exclusive right of Government. The principles on which it was determined that a compensation should be made to the parties affected by the discontinuance of the privilege of collecting duties, were as follows:—

Firstly.—It having never been lawful to exercise this privilege without the sanction of Government, it followed of course that all instances of the exercise of it without such sanction were illegal usurpations, and the usurpers, so far from having any just claims to a compensation, might without injustice have been made answerable for the amount unlawfully received by them. As, however, the Company had limited their retrospection in similar cases to the period of their accession to the Dewanny, this principle was adopted only with regard to collections commenced since that period.

Secondly.—Government having always reserved to itself a power of abolishing all duties deemed oppressive, it followed that all collections made contrary to any prohibitory orders of Government were unauthorized exactions, for which no compensation was due to the parties who had benefited by them.

Thirdly.—The condition of particular persons, reduced to distress by the deprivation of the income they had received from duties though unauthorized, being a separate consideration, unconnected with the question of right, was reserved for determination as cases might occur.

Fourthly.—The holders of lakheraj lands, or land exempted from the payment of public revenue, who had received the sanction of Government to the establishment of gunges, bazaars and hauts on their lands, or in other words, who had been authorized to exercise the privilege of collecting duties thereon, were deemed entitled to a full compensation for the resumption of such privilege, adequate to the annual profit they derived from it.

Fifthly.—The holders of malguzary land, or land assessed for the public revenue, who had been permitted to collect gunge, haut, bazaar or other duties on their lands, were also considered entitled to a full compensation for the profits they were allowed to enjoy from such collections; and these profits having by a general regulation been limited to one-tenth of their net receipts, an equivalent to this proportion was considered the compensation due to them.

In pursuance of the principles above stated, the Governor-general in Council had prescribed such rules, adapted to existing circumstances, as he judged necessary for the immediate guidance of the collectors and the Board of Revenue in carrying his intentions into effect, in such mode as might secure the objects intended, with the least possible injury to the individuals affected thereby. But on the collection of the sayer being committed to the officers of Government, it was found that the exactions were so numerous and complicated, and imposed on such impolitic principles, as to preclude the possibility of regulating them in such a manner as to render them productive to the state, and at the same time to prevent their operating as a burden on the internal commerce and industry of the country. It was, in consequence, determined, on the 28th July 1790, to abolish the sayer collections (with certain specified exceptions) throughout the three provinces, leaving to future consideration what internal duties or taxes should be imposed in lieu of them. The Governor-general in Council deeming it of importance that all the rules which had been passed regarding the sayer collections since their first resumption on the 11th June 1790, to the present date, should be made as generally known as possible, they were included in this Regulation; and the several rules passed within that period were to be considered as having had operation from the date on which they were respectively passed, and to be still in force, excepting where they should have been wholly or partially modified, altered or rescinded by subsequent rules enacted during that period, or by the present Regulation, or any other Regulation of the same date.

The above preamble was followed by the republication of the several rules which had been promulgated at different periods between the 11th June 1790 and the 1st May 1793, regarding the collections abolished or resumed by the Government, and the compensation to be made to the proprietors who had formerly received them, according to the different nature of their tenure.

The collections which were not abolished, but which for the future were to be received by the Government only, were the Government and Calcutta customs, the duties levied on pilgrims at Gya, and other places of pilgrimage, the abkaryor tax on spirituous liquors, the collections in bazaars and markets within the limits of Calcutta. It was declared also that landholders were not to be considered as precluded from receiving *bonâ fide* rents for the use of land, or for houses, shops or other buildings erected thereon, or for orchards, pasture ground, or fisheries, sometimes included in the sayer, under the denomination of phulkur, bunkur and julkur.

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(3.) Regulations for the Administration of Revenue Affairs. (A.)

The receipt of sayer collections by individuals in opposition to this Regulation was declared punishable, on complaint to the civil court; but the courts were not to have cognizance of questions of compensation, except on complaint that compensation which had been ordered by the Government to be paid had been withheld by collectors.*

Regulation XLIV.—1793.

Validity and Effect of Leases from Proprietors and Talookdars, &c.—Term for which they might be granted.

Reg. XLIV. 1793.

The preamble to this Regulation was as follows: the public demand upon estates of the proprietors of lands with whom a settlement had been or might be concluded under the original Regulations for the decennial settlement, having been declared fixed for ever, it was to be apprehended that many proprietors, either from improvidence or ignorance, or with a view to raise money, or from other causes or motives, might be induced to dispose of dependent talooks, now existing in their respective estates, at an under rate, or let lands in farm, or grant pottahs for the cultivation of land at a reduced rent, for a long term, or in perpetuity. Such engagements, if held valid, would leave it in the power of weak, improvident or ill-disposed proprietors to render their property of little or no value to their heirs, promote vice and injustice, occasion a permanent diminution of the resources of Government, arising from the lands, in the event of the rent or revenue reserved by such proprietors being insufficient for the discharge of the amount of the public demand upon their estates, be an abuse of the great and lasting benefit which had been conferred upon the landholders by the possession of their lands being secured to them in perpetuity at a fixed assessment, and moreover be repugnant to the ancient and established usages of the country, according to which the dues of Government from the lands (which consist of a certain proportion of the annual produce of every begah of land, demandable according to the local custom in money or kind, unless Government had transferred its right to such proportion to individuals for a term or in perpetuity, or fixed the public demand upon the whole estate of a proprietor of land, leaving him to appropriate to his own use the difference between the value of such proportion of the produce, and the sum payable to the public so long as he continued to discharge the latter,) are unalienable without its express sanction. It was at the same time essential that proprietors of land should have a discretionary power to fix the revenue payable by their dependent talookdars, and to grant leases, or fix the rents of their lands, for a term sufficient to induce their dependent talookdars, under-farmers and ryots, to extend and improve the cultivation of their lands, and that such engagements should be held inviolable in all cases, except where they might interfere with or affect in any shape the primary and indefeasible rights of Government.

Definition of the Land Revenue.

Upon the above grounds, and as the proprietors of land, previously to the decennial settlement being declared perpetual, were not entitled to enter into engagements with their dependent talookdars, under-farmers or ryots, for a period extending beyond the term of their own engagements with the public, the Governor-general in Council enacted by the present Regulation, that no proprietor of land should be allowed to fix the jumma of his dependent talooks, nor to let farms or grant pottahs for a period exceeding ten years, nor to renew such engagements before the last year of the term: all engagements in breach of this rule were declared null.

See Reg. V. 1812.

See Reg. XVIII. 1812.

On the division of a joint estate, the apportionment of the revenue upon the divisions was to be made upon the principles prescribed in Regulation I. 1793, without regard to any engagements between the proprietors and the dependent talookdars. Those engagements, however, during the period for which they were made, were to be binding on the sharers.

On the sale of lands on account of arrears of public revenue, all engagements of the proprietors with their dependent talookdars, farmers or ryots were declared void, and the purchasers were to be at liberty to collect from those persons whatever might be demandable, according to the established usages and rates of the pergunnah in which the lands were situated, as if the engagements declared void had never existed.

It was to be understood, however, that this restriction was not to prevent proprietors from granting leases of any length for houses, gardens, &c. except to Europeans.

Regulation IV.—1794.

Delivery of Pottahs or Agreements between Proprietors and Cultivators.

Reg. IV. 1794.

This was a Regulation having for one of its objects the suspension of the rules of Regulation VIII. 1793, regarding pottahs and putwarries in certain districts, where from the body of the ryots not being able to read or write, from a prevailing custom of cultivating under verbal agreements, and from the expense of appointing putwarries, conformity to those rules had been represented as impracticable. The preamble also declared of ryots generally, that

* It was declared by Sec. 9, Reg. IX. 1825, that the provisions of this Regulation should not be held applicable to any item of collection or cess levied by the receivers of revenue according to ancient custom, which should have been sanctioned by a collector or superior revenue authority, not being a tax on the transit of goods or merchandize.

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that they had appeared frequently to have omitted or refused to take out pottahs, although the persons from whom they were entitled to demand them had offered to grant them in the form and on the terms prescribed in the Regulation above referred to.

The Regulation, after exempting a certain district in Behar from the operation of part of Regulation VIII. 1793, proceeded to enact generally, that a notification fixed up in the principal cutcherry of the estate, that the proprietor was ready to deliver pottahs, would be considered a legal tender of a pottah, and would entitle the proprietor to proceed to the legal recovery of his dues.

The Regulation further declared, that the required sanction of the collector was to be understood as relating only to the form, not to the terms, of pottahs; and that if disputes should arise between proprietors and ryots regarding the *rates* of the pottahs, or whether the rate be payable in money or in kind, those questions should be determined in the civil court of the zillah, according to the usage in regard to lands of similar description and quality in the same pergunnah. It was also declared, that ryots were to be considered entitled to a renewal of their pottahs at the pergunnah rates when they should expire or become cancelled under Regulation XLIV. 1793.

Regulation XVII.—1805.

Management of joint undivided Estates.

Reg. XVII. 1805.

It had been directed in Regulation VIII. 1793, that the settlement of undivided estates possessed by two or more proprietors should be made with them jointly, but that they should jointly appoint a serberakar or manager, and that on their failing to make such appointment, the collector might nominate the manager, subject to the approbation of the Board of Revenue. If any sharers in a joint undivided estate were disqualified and had guardians, such guardians were to vote on their behalf on the appointment of the manager by the collective body. The preamble to the present Regulation stated, that proprietors had generally manifested reluctance to elect a manager as prescribed, and that it appeared to be most conducive to the convenience of Government, and most conformable to the wishes of the proprietors, that they should be left to manage their estates without any interference of the officers of Government; the Regulation accordingly enacted, that the collector or the Board of Revenue should not in future interfere in the appointment of a manager for the collection of the revenue of joint undivided estates; the revenue accounts were to be kept as those of an entire estate, and not with individual proprietors, and the estates were to be held answerable in the whole for the Government revenues.

Regulation XIII.—1811.

Powers of single Members of the Board of Revenue.

Reg. XIII. 1811.

It having been enacted by Regulation II. 1793, that two members should be necessary to constitute a Board of Revenue, it was provided by this Regulation, that whenever necessary, one of the two members of the Board might be deputed into any part of the provinces on special duty with the sanction of Government. In such cases the member on deputation was to have all the powers of the Board, and the member remaining at the Presidency was declared competent to hold a Board alone with full authority.*

Regulation V.—1812.

Leases and Pottahs by Landholders to their Tenants and Cultivators.

Reg. V. 1812.

The objects of this Regulation were twofold: first, to revise the Rules regarding the grant of pottahs by proprietors to their tenants, and the rates at which persons purchasing lands at the public sales should be entitled to collect their rents; and, secondly, to amend the Rules for the recovery of arrears of rent by distraint.

The enactments of the latter part will be found under the head, "Collection of the Revenue."

The Regulation enacted that proprietors of land might grant leases† for any period which they might deem most convenient to themselves and their tenants, and most conducive to the improvement of the estates; also that they should be competent to grant leases and pottahs to their under-tenants, farmers and ryots, and to receive corresponding engagements from them, in such form as the contracting parties might deem most convenient and most conducive to their respective interests; and such agreements were to be enforcible by the courts, provided that no arbitrary or indefinite cesses should be sanctioned by this Rule.

Under

* By Regulation XXIV. 1817, the same power of holding a Board was given to a single member, in the event of the absence of the other member on account of sickness.

† It is explained by Regulation XVIII. 1812, that this right was meant to extend even to leases in perpetuity, except where the grantor had only a restricted interest, in which case the lease could only be granted for the period of that interest.

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(3.) Regulations for the Administration of Revenue Affairs. A.)

See R. VII. 1799. I. 1801.

Under the provisions of Regulation XLIV. 1793, the purchaser of lands at public sales was entitled to annul all engagements which might have been contracted between the former proprietor and his under-tenants, and to collect according to the customary rates of the pergunnah or district. By subsequent Regulations it was provided, that this power of annulment should not be exercised before the end of the year, if the sale had taken place after the expiration of the second month of the Bengal or Fuslee year, except in cases of such leases or engagements being collusive. By the present Regulation it was declared, that the exception last mentioned should not have effect unless the collusion were declared by the decision of a court of judicature, on a summary suit instituted under Regulation VII. of 1799.

Rates.

In reference to the before-mentioned authority of purchasers to collect according to pergunnah or district rates, this Regulation provided, that where no established district or pergunnah rates should be known, the collections should be made according to the rate payable for land of a similar description in the places adjacent; "but if the leases and pottahs of the tenants of an estate generally, which may consist of an entire village or other local division, be liable to be cancelled under the Rules above noticed, new pottahs should be granted, and the collections made at rates not exceeding the highest rate paid for the same land in any one year within the period of the three last years antecedent to the period at which the leases might be cancelled." In the case of dependent talookdars, a deduction of 10 per cent. from the total of the rates payable by the ryots, besides a reasonable allowance for charges of collection, was to be made to the talookdar. No cultivator or tenant was to be liable to pay an enhanced rent to an auction purchaser, unless written engagements had been entered into by the parties, or unless a formal notice had been served on such cultivator at the season of cultivation, notifying the specific increase of rent to which he would be subject; if an enhanced rent were levied without such notification, the cultivator was to be entitled to a refund of the excess, with damages, on proof of the fact before a court of justice.

Zillah judges were authorized, in cases of disputes between the proprietors of joint undivided estates, to appoint a proper person to be manager; if the person so appointed should be objected to by any individual interested in the estate, the objection might be submitted to the provincial court. It was also competent to any person so interested to represent to the zillah judge the unsatisfactory conduct of a manager, and to move for his removal.

By Regulation VIII. 1819, the rule requiring the delivery of pottahs in certain forms was rescinded, and landholders and their tenants were declared competent to interchange such instruments as they should deem most conducive to their respective interests.

Regulation XV.—1813.

Abolition of the Office of Dewan.

Reg. XV. 1813.

The preamble to this Regulation stated, that under the previously existing Regulations, a native officer had been appointed in each district, with the official designation of Dewan, for the performance of certain specified duties, and for the purpose of aiding the collectors generally in the discharge of the public functions of their stations; that considerable inconvenience had resulted from the existence of that office, in some instances from the abuse of the power and influence possessed by the dewans, in others from disagreements between the collectors and those native functionaries, and from other causes; and that it would conduce to the public interests that the several branches of the public business in the offices of the collectors should be conducted by distinct and separate establishments, subject only to the direct and immediate control of the collectors themselves. The present Regulation was therefore enacted, to abolish the office of Dewan, from the 1st January 1814, throughout the territories dependent on the presidency of Fort William.

Regulation XXIX.—1814.

Rules for the Protection of the Ghautwal Tenure in Beerbhoom.

Reg. XXIX. 1814.

This Regulation provided for a peculiar tenure in the district of Beerbhoom, held by the class of persons denominated Ghautwals, who, according to the former usages and the constitution of the country, were entitled to hold their lands, generation after generation, in perpetuity, subject to the payment of a fixed and established rent to the zemindar of of Beerbhoom, and to the performance of certain duties for the maintenance of the public peace and support of the police.

The Regulation declared, that the Ghautwals and their descendants in perpetuity should be maintained in possession of the lands so long as they should pay the revenue at that time assessed upon them, and should not be liable to any enhancement of rent so long as they should punctually discharge the same, and fulfil the other obligations of their tenure; the rents were to be paid to such public officer as the Board of Revenue, with the sanction of the Governor-general in Council, should direct to receive them.

It further declared, that in the event of any of the ghautwals failing to discharge their stipulated rents, it should be competent for the Governor-general in Council to cause the tenure of such defaulter to be sold by public sale in satisfaction of the arrears, under the same rules as lands held immediately of Government, or to transfer it by grant assessed with the same revenue, or with an increased or reduced assessment, as to the Government should appear meet. Any increase of revenue obtained from the operation of any arrangements of the nature above described was to be paid to the zemindar of Beerbhoom, his heirs and successors.

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Regulation VIII.—1819.

Powers of Landholders to create certain Lease Tenures.

Reg. VIII. 1819.

The preamble to this Regulation so fully detailed the origin of the peculiar tenure which the enactment legalized, that it seemed desirable to give at full length so much of it as had relation to that subject. It was as follows:

By the rules of the perpetual settlement, proprietors of estates paying revenue to Government, that is the person answerable to Government for the revenue then assessed on the different mahals, were declared to be entitled to make any arrangements for the leasing of their lands in talook, or otherwise that they might deem most conducive to their interests. By the rules of Regulation XLIV. 1793, however, all such arrangements were subjected to two limitations: first, that the jumma or rent should not be fixed for a period exceeding ten years; and secondly, that in case of a sale for Government arrears, such leases or arrangements should stand cancelled from the day of sale. The provisions of Section 2, Regulation XLIV. 1793, by which the period of all fixed engagements for rent was limited for ten years, have been rescinded by Section 2, Regulation V. 1812; and in Regulation XVIII. of the same year, it was more distinctly declared, that zemindars were at liberty to grant talooks or other leases of their lands, fixing the rent in perpetuity at their discretion, subject however to the liability of being dissolved on sale of the grantor's estate for arrears of the Government revenue, in the same manner as heretofore. In practice, the grant of talooks and other leases at a rent fixed in perpetuity had been common with the zemindars of Bengal for some time before the passing of the two Regulations last mentioned; but notwithstanding the abrogation of the rule which declared such arrangements null and void, and the abandonment of all intention or desire to have it enforced as a security to the Government revenue in the manner originally contemplated, it was omitted to declare in the rules, Regulation V. and XVIII. of 1812, or in any other Regulation, whether tenures at the time in existence and held under covenants or engagements entered into by the parties in violation of the rule of Section 2, Regulation XLIV. 1793, should, if called in question, be deemed invalid and void as heretofore. This point it had been deemed necessary to set at rest by a general declaration of the validity of any tenures that may be now in existence, notwithstanding that they may have been granted at a rent fixed in perpetuity, or for a longer term than ten years, while the rule fixing this limitation to the term of all such engagements, and declaring null and void any granted in contravention thereto, was in force.

Furthermore, in the exercise of the privilege thus conceded to zemindars under direct engagements with Government, there had been created a tenure which had its origin on the estates of the rajah of Burdwan, but had since been extended to other zemindaries; the character of which tenure is, that it is a talook created by the zemindar, to be held at a rent fixed in perpetuity by the lessee and his heirs for ever; the tenant is called upon to furnish collateral security for the rent, and for his conduct generally, or he was excused from this obligation at the zemindar's discretion; but even if the original tenant be excused, still in case of sale for arrears, or other operation leading to the introduction of another tenant, such new incumbent had always in practice been liable to be so called upon at the option of the zemindar; by the terms also of the engagements interchanged, it was amongst other stipulations provided, that in case of an arrear occurring, the tenure might be brought to sale by the zemindar; and if the sale did not yield a sufficient amount to make good the balance of the rent at the time due, the remaining property of the defaulter should be further answerable for the demand. These tenures had usually been denominated *putnee* talooks, and it had been a common practice of the holders of them to under-let on precisely similar terms to other persons, who on taking such leases went by the name of durputnee talookdars; these again sometimes similarly under-let to seputneedars, and the conditions of all the title-deeds varied in nothing material from the original engagements executed by the first holder. In these engagements, however, it was not stipulated whether the sale thus reserved to himself by the grantor was for his own benefit or for that of the tenant; that is, whether, in the case the proceeds of sale should exceed the zemindar's demand of rent, the tenant would be entitled to such excess; neither was the manner of sale specified, nor did the usages of the country, nor the Regulations of Government, afford any distinct rules, by the application of which to the specific cases the defects above alluded to could be supplied, or the points of doubt and difficulty involved in the omission be brought to determination in a consistent and uniform manner. The tenures in question had extended through several zillahs of Bengal, and the mischiefs which had arisen from the want of a consistent rule of action for the guidance of the courts of civil judicature in regard to them, had been productive of such confusion as to demand the interference of the legislature. It had accordingly been deemed necessary to regulate and define the nature of the property given and acquired on the creation of a

Putnee.
Dur-putnee.
Se-putnee.

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(A.)

putnee talook as above described; also to declare the legality of the practice of under-letting in the manner in which it had been exercised by putneedars and others, establishing at the same time such provisions as should be calculated to protect the under-lessee from any collusion of his immediate superior with the zemindar or other for his ruin, as well as to secure the just rights of the zemindar on the sale of any tenure under the stipulations of the original engagements entered into with him.

The Regulation then proceeded to declare, that existing leases for a specific rent granted by proprietors engaged to pay revenue to Government for a term of years or in perpetuity, and whether executed before or after the passing of Regulation V. 1812, or during the existence of the rule in Regulation XLIV. of 1793, which limited the powers of proprietors to grant leases to ten years, should be good and valid tenures, according to their terms and covenants.

The Regulation next declared putnee tenures described in the preamble to be valid, heritable, capable of transfer by sale, gift or otherwise, answerable for debts, and subject to the process of the courts of judicature, in the same manner as other real property. The holders of putnee talooks were declared competent to under-let their tenures, as most conducive to their own interests, with a reservation however of the right of the zemindar to hold the superior tenure answerable for arrear of rent, unencumbered with the engagements of his tenant.

In case of an arrear occurring on a putnee tenure, it was to be liable to sale by auction, and the holder of the tenure was to be entitled to any excess in the proceeds of the sale beyond the amount of the arrear for which it was sold; the interests of the several classes of grantors of under putnee talooks to the third and fourth degree, were declared to be similar, as between the parties, to those of the grantors of putnee talooks in chief. The holders of putnee talooks being at liberty to transfer their tenure to others, it was declared not competent to the zemindar or other superior to refuse to register such transfers, provided certain fees were paid. Purchasers at sales for arrear of revenue were however entitled to have their tenure registered without payment of any fee. The putnee lessor might call upon the transferree to give security to the amount of half his yearly rent, such being understood to be one of the original liabilities of the tenure: in the event of the rejection of the security tendered by a transferree, an appeal might be preferred to the Zillah Court, who, if the security were proved efficient, might enjoin the zemindar to accept it, and give effect to the transfer. In case of a putnee tenure being purchased at public sale, and of the purchaser not giving the required security, the zemindar might attach the tenure, such attachment to be considered as a trust, for the benefit and at the risk of the purchasers; any surplus of the collections to be held in deposit for the purchaser; and in the event of a deficiency, the tenure and person of the defaulter to be held responsible.

Regulation III.—1822.

New Constitution of Boards of Revenue.

Reg. III. 1822.

This Regulation established three several Boards of Revenue:

Bengal, Boglepoor and Pooneah. — One for the Lower Provinces;

Southern and Northern Divisions of Bundlecund, Allahabad, Cawnpoor, Behar and Benares. — One for the Central Provinces;

Ceded and Conquered Provinces, except as above. — One for the Western Provinces;

the number of members and the station of each board to be settled by Government, who might also assign the duties and powers to one or more members of the board.

The Regulation contained rules limiting the powers of decision of single members when not concurred in by the other members, except under the special authority of Government.

Regulation I.—1824.

For enabling the Government to obtain Lands for public Purposes.

Reg. I. 1824.

The object of this Regulation was to enable the Government to obtain lands which might be required for important public services, on giving a just and full compensation to the persons holding an interest in the property so required; it likewise contained provisions for the adjustment of the claims of zemindars, and of the officers of Government in the salt department, relative to lands in the districts where salt was manufactured; the rules on the first part of the subject only will be here noticed.

In the event of any obstacle presenting itself to the obtaining any land required for public purposes, the collector was to notify, by public proclamation, the situation and extent of the land required, and to call for the attendance of all persons having claims upon it to make known the interest claimed by them, the compensation they would require, and their objections, if any, to part with the land. On all these points the collector was to make a report to Government. If the proprietor positively objected to part with the land, or required an exorbitant compensation, the Government were to direct that arbitrators should be appointed to make a proper valuation of the property; two were to be nominated on the

part

part of the Government, and an equal number on the part of the proprietor; the arbitrators were not to be sworn, but to sign an obligation to the faithful discharge of the trust, and they were to appoint an umpire. The officers authorized by Government to appoint the arbitrators were to have the same powers over them to compel attendance, &c. as courts of justice had over witnesses, and might call upon them to give their award in a specified time, and in default thereof might refer the matter for the decision of the umpire. If the land required were lakhiraj, the arbitrators were to determine what would be a fair value for the whole property proposed to be assumed or destroyed in the execution of the public work in hand; if the land were malguzarry, the arbitrators were to declare the amount of the net rent which the proprietor received from the land, as far as they could ascertain the same, and the value of any other interest which he might possess in the land. It was then to be competent to the Government to determine what proportion of the compensation should be made in the shape of annual remission of revenue, and what should be commuted for a payment in ready money. In the event of any dispute regarding the title of a previous holder, or the respective rights of different parties claiming interests therein, the compensation money might be kept in deposit, or vested in Government securities, until such questions should have been decided. Full and particular rules were given regarding the mode of conducting the inquiry, as well as the due preservation of the rights of all parties having claims or interests in the lands proposed to be assumed.

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(3.) Regulations for the Administration of Revenue Affairs. (A.)

The remaining Sections of the Regulation, after the eighth, relate to lands required for the manufacture of salt.

Regulation IX.—1825.

Extension of the Rules of Regulation VII. 1822 (enacted for the Upper Provinces) to Bengal, &c.

Reg. IX. 1825. Special Powers to be granted to Collectors.

The preamble to this Regulation declared, that the rules of Regulation VII. 1822, enacted for the provinces of which the revenues had not been permanently settled, appeared equally applicable to various mahals and tracts within the other provinces, the revenues of which had not been permanently settled; it was therefore deemed expedient to extend those provisions to all lands not included within the limits of estates permanently settled in conformity with Regulation VIII. 1793, and also to lands held free of assessment under special grants.

See head "Land Revenue Special, (A.)"

The Regulation declared accordingly the extension of the provisions of Regulation VII. 1822. It likewise declared it competent to the Governor-general in Council to vest any collector in Bengal, Behar, Orissa or Benares, with the powers of judicial inquiry regarding rent and disputes between landlords and tenants, their sureties and agents, on all matters connected with the land, the delivery of pottahs, violation of engagements, &c., and other similar subjects, and to notify such appointment by proclamation, after which all such suits, if entered for summary inquiry before the courts, were to be transferred to the collectors, and to be otherwise dealt with as provided in Regulation VII. 1822.

It was declared competent to collectors, in cases of failure on the part of persons who had engaged for the payment of revenue permanently assessed, to annul such engagements, instead of having recourse to a sale of the lands, and to let the lands in farm for periods not exceeding 15 years, or to hold them under khas management for the purpose of making a ryotwar settlement.

Regulation XI.—1825.

Rights in Lands acquired by Alluvion, and Liability of such Lands to pay Revenue.

Reg. XI. 1825.

In consequence of the frequent changes which took place in the channel of the principal rivers that intersect the provinces immediately subject to the presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, *churs* or small islands were often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of lands were carried away by an encroachment of the river on one side, whilst accessions of land were at the same time, or in subsequent years, gained by dereliction of the water on the opposite side. Similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea coast, which borders the southern and south-eastern limits of Bengal. The lands gained from the rivers or sea by the means above mentioned were a frequent source of contention and affray, and although the law and custom of the country had established rules applicable to such cases, these rules not being generally known, the courts of justice had sometimes found it difficult to determine the rights of litigant parties claiming churs or other lands gained in the manner above described. The court of Sudder Dewanny Adawlut, with a view to ascertain the legal provisions of the Mahomedan and Hindoo laws on this subject, had called for reports from their law officers of each persuasion. On consideration of those reports, as well as of the decisions which had been passed by the court of Sudder Dewanny Adawlut, in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion or by dereliction of rivers, or the sea, the Governor-general in Council had deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the courts of judicature.

Appendix, No. 6.

(3.) Regulations for the Administration of Revenue Affairs. (A.)

Whenever the courts might be called upon to decide disputes between the proprietors of contiguous estates divided by a river, as to the right of possession of alluvial land, if any distinct usage should be established, such usage was to govern the decision; where no such usage should exist, the alluvial soil was to be considered as appertaining to the person to whose land it adjoined. In regard to liability to payment of revenue, such lands were to be held on the same tenure and subject to the same rules of assessment as the other lands to which they became annexed. This rule, however, was not to be held applicable to land cut off by the sudden change of the course of a river; all such land, on being clearly recognized, was to remain the property of the original owner. Islands thrown up in deep rivers or in the sea were declared to be the property of Government, but those in fordable rivers were to belong to the person to whose estate they most nearly adjoined. In shallow rivers where a right of fishery was held, any land or banks that might be thrown up were to be the property of the proprietors of the bed of the river. In all the above cases, the tenure of the acquired lands and the liability of the possessor to pay revenue were to be the same as in the lands to which they were annexed.

In all cases regarding lands acquired from waters not specifically provided for by this Regulation, the court, in adjudicating claims preferred, were to be guided by the best evidence they could obtain, and by the general principles of equity and justice.

Regulation I.—1829.

Establishment of the Office of Commissioners of Revenue (and Circuit.)

Regulation I. 1829.

This Regulation was enacted to constitute the office of Commissioner of Revenue and Circuit; a portion of the preamble which related to the Judicial department will be found in the abstract of the Judicial Regulations under the head "Court of Circuit." The grounds assigned in the preamble for the new arrangements in the Revenue department, were that the great extent of country under each of the Boards of Revenue had operated to impede those authorities, in the execution of the duties which belonged to them, as tribunals for the determination of all questions relative to the assessment of lands under settlement, and for the judicial decision of many other important cases, which came before them as the general guardians of the fiscal interests of the state, as directors and superintendents over the executive officers in the Revenue department, and as the confidential advisers of Government. It had therefore appeared expedient to place the collectors and other executive officers under the superintendence and control of commissioners of revenue (and circuit) each vested with the charge of such a moderate tract of country as might enable them to be easy of access to the people, and frequently to visit the different parts of their respective jurisdictions, to confide to those commissioners the powers which did belong to the Boards of Revenue, which powers should be exercised under the instructions and control of a sudder or chief Board of Revenue. It had at the same time appeared quite necessary, with a view to the more speedy and effectual redress of the wrongs suffered by the people in the Western Provinces, under the circumstances detailed in the preamble of Regulation I. 1821, to transfer to the said commissioners the authority exercised by the mofussil special commissioners under that Regulation, with certain modifications.

See head "Land Revenue Special, (B.)"

The Regulation constituted twenty commissioners of revenue (and circuit). The commissioners were to possess within their several districts the authority before vested in the Boards of Revenue and Court of Wards, subject to the control and direction of a sudder or head board, to be ordinarily stationed at the Presidency, unless otherwise directed by the Governor-general in Council. The stations at which the sudder board and the commissioners, when not on circuit, should reside, were to be fixed by the Government.

The office of mofussil special commissioners, under Regulation I. 1821, was abolished, and the powers vested in those officers were transferred to the commissioners of revenue (and circuit); the powers of the sudder special commission were transferred to the sudder board to be appointed under this Regulation, and they were empowered to take cognizance of any cases of the nature of those to which that Regulation referred, if the cause of action had arisen at any time before the 1st March 1829.

The Commissioners were authorized to refer cases for investigation, and report to the collectors or deputy collectors under their authority. No appeal was to lie of right to the sudder board from the decision of the commission, but a special appeal might be admitted by the sudder board, if on consideration of the petition and of the proceedings held and decree passed, they should see reason to think that justice had been denied to the party, or that the public interests had not been sufficiently attended to.

PART I.—Land Revenue—GENERAL—*continued.* Appendix, No. 6.

(3.) Regulations for the Administration of Revenue Affairs. (B.)

(B.)—RULES for the RECOVERY of ARREARS of REVENUE due to the GOVERNMENT, and SALES of LAND in discharge of such ARREARS, or in satisfaction of DECREES of COURTS of JUSTICE.

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(B.)

RECOVERY of ARREARS of REVENUE due to the GOVERNMENT, and SALES of LAND in discharge of such ARREARS, or in satisfaction of DECREES of COURTS of JUSTICE.

REGULATION XIV.—1793.

Recovery of Arrears of Revenue due to Government by Proprietors and Farmers.

THE preamble to this Regulation declared it to be necessary that collectors should be armed with power to enforce the payment of arrears of revenue without the tardy process of a suit in a court of justice, but that such power should be exercised at the personal risk and responsibility of the collector; it stated, that as on the one hand the collectors, having the engagements of the proprietors or farmers in their own possession, could not suffer from unjust prosecutions so long as they were careful not to infringe those engagements, or the rules established for their enforcement; so, on the other hand, the proprietors or farmers could always guard against the exercise of the collector's powers by the punctual payment of their revenue. Reg XIV. 1793.

An arrear of revenue was defined to be the whole or portion of a monthly instalment, remaining undischarged on the first of the following month. Payment of arrears of revenue was to be demanded in writing; if not paid, the collector might at his discretion cause the defaulter to be imprisoned or not; but if the arrear due on the 15th of any month, on account of any preceding month, should be equal to two-thirds of the instalment, and if the arrear had been demanded and not paid, the collector was positively enjoined to send the defaulter to the zillah gaol, where the judge, on the motion of the collector, was to order him to be detained until he should have discharged his dues, including the accruing arrears, or until the collector should apply by motion for his discharge. If a defaulter resided in a different zillah from that wherein the lands on which the arrear accrued were situated, he was to be conveyed to the gaol of the zillah in which he was resident. When a proprietor or farmer should be imprisoned for arrear, the collector was to depute an ameen to collect the rents of the lands on account of Government; but strictly in conformity with the engagements actually subsisting between the defaulter and his dependent talookdars, under farmers and ryots. If the Board of Revenue should consider the non-payment of the zemindar to have been wanton, and for the purpose of otherwise applying his money than to the payment of his revenue, they were empowered to charge the defaulter with interest at the rate of 12 per cent. per annum. If a collector should believe that the arrear had been occasioned by causes not originating in any neglect or fault of the proprietor or farmer, he might suspend the confinement of the defaulter, and report the circumstances to the Board of Revenue. If a defaulting proprietor or farmer should deny the justice of the demand in the whole or in part,

See Reg. III. 1794.

See Reg. I. 1801.

See Reg. III. 1794.

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(3.) Regulations for the Administration of Revenue Affairs.

(B.)

part, and give security that he would within ten days institute a suit in the civil court to try the demand; or if he should pay the part he acknowledged, and give security to try the justice of the remainder, he was not to be imprisoned; but if the sum acknowledged were not paid, or the suit were not so instituted, the collector was to proceed against both defaulter and surety for the arrear, with interest at 12 per cent.

Defaulters might sue collectors in the civil court for damages on account of imprisonment for an arrear not due, but not for imprisonment on account of failing to institute a suit as above provided.

See Reg. XI. 1822.

If at the end of a year an arrear should remain due, the proprietor not being in gaol, nor having instituted a suit against the collector, the amount of the arrear was to be communicated to the Board of Revenue, who would order such part of the estate to be sold as would satisfy the arrear; but no sale of an estate was to take place without the consent of Government.

In the event of the proprietor absconding or resisting the service of process, a proclamation was to be affixed in certain places, requiring his attendance to deliver himself into custody within four weeks; disobedience to this proclamation would incur the penalty of forfeiture of the estate to Government: the forfeiture was to be declared by the courts; an appeal lay to the provincial court from a judgment of forfeiture by the zillah court, and if the annual produce of the estate exceeded 1,000 rupees, a further appeal lay to the Sudder Adawlut; the decree of forfeiture, however, was in no case to be carried into execution until it had been submitted to the Governor-general in Council, to whom an option was reserved of commuting the forfeiture for a fine. In case of forfeiture also, Government might either grant the estate to the next heir, or cause it to be sold by auction; in the latter case, the proceeds of the sale were to go in liquidation of the balance. A similar course was to be pursued in respect to a defaulting farmer who should evade or resist the process issued by the collector for his apprehension, and the like option was reserved to the Government of declaring the lease forfeited, or commuting the forfeiture to a fine. Evasion or resistance of process by the surety of any proprietor or farmer was to be punished by fine, to be declared in like manner by the courts, with an option reserved to the Government of enforcing or

See Reg. III. 1794.

mitigating the fine. If after the imprisonment of a proprietor, the revenue received by the ameen in charge should not have liquidated the balance, the estate might be put up to sale; but upon the defaulter giving security to institute a suit in the court to try the justice of the demand at any time previously to the day of sale, (provided the arrear had not been already adjudged due by a court of justice) the sale was to be suspended.

If an arrear was due from a farmer at the end of the year, the ameen in charge of the collections not having realized enough to pay the Government dues, the surety was to be called upon to pay, and both farmer and surety might be imprisoned, and the Government might either cancel the lease at the end of the year, or compel the farmer to perform the conditions until it should expire.

Lands of sureties wherever situated were declared liable to attachment to make good the default of their principal.

The sales of land for arrear of revenue were to take place either at the office of the collector or at the Board of Revenue, the time and place to be notified by public proclamation, which was to specify the amount of arrear for which the purchaser was to be responsible; such arrear was only to be that accruing for the year in which the sale should take place, unless otherwise declared in the conditions of sale. Several rules followed prescribing the forms of sale, the amount of deposit, the consequences of failure to pay up the purchase money, and the settlement of the account of proceeds with the defaulter.

A person confined under the process of the collector for arrears of revenue, might move the court to require the collector to show cause why he should not be released, and a summary inquiry was to take place before the judge; if the prisoner should deny the debt *in toto*, the judge was to leave him to prosecute the collector by regular suit; if it should appear to the judge upon inquiry that the whole had been paid, he was to release the prisoner, upon his giving security to meet an appeal if preferred by the collector; if part should have been paid, the judge might release him on his engaging to pay the amount by instalments during the course of one year after his release, and on his giving security for the fulfilment of that engagement. The Board of Revenue were to determine whether the decisions which the courts might pass were to be appealed or not.

See "Civil Judicature—Miscellaneous (A.)", p. 686.

Suits against the collectors, defended under the orders of the Board of Revenue, were to be deemed public suits at the public expense; but suits for the recovery of revenue, alleged to have been directly or indirectly received by the collector for his own use, were to be defended at his own expense. Collectors were neither to derive advantage, nor to be at expense, on account of public suits. If a collector should have been compelled to pay costs or damages in any suit instituted under this Regulation, and it should appear to the Board of Revenue that he ought not to be made responsible for the amount, the Board were to submit the matter to the Governor-general in Council, who would determine whether or not he should be held responsible.

Sums advanced by the Government to assist landholders and promote agricultural improvements, or the repairs and extension of embankments, were to be recovered in the same way as arrears of revenue.

If the lands of a defaulting proprietor assessed with payment of revenue to Government should not be sufficient, when sold, to liquidate the public demand, his other property, real or personal, might be put up to sale to make up the deficiency.

In cases in which parties might sue for redress for acts done under the special orders of Government or the Board of Revenue; or when a defaulter should admit the demand made upon him to be conformable to the stipulations of the agreement on which it was grounded,

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but should deny the validity of the engagement, or otherwise object to it, the Government were to be considered the party in the suit; and if the Governor-general in Council should not think it proper to afford the redress solicited by the petitioner, he would direct the court in which the claim might be cognizable to proceed to the trial of it.

Regulation XLV.—1793.

Sales of Land in satisfaction of Decrees of Court.

Reg. XLV. 1793.

The object of this Regulation was to secure the due allotment of the public revenue on portions of estates required to be sold under the decrees of the court; and for this purpose it directed, that in all such cases the courts should transmit copies of their decree to the Board of Revenue, who would cause the sale of the lands necessary for the satisfaction of such decree to be made by the collector, and the course of procedure in the sale was to assimilate to that on the sale of lands for arrear of revenue. The courts were empowered at the same time to countermand or postpone sales at any time after they had been ordered, and before they had actually taken place. After lands had been sold under this Regulation, the collector was to cause the prescribed entries to be made in the public register. Proprietors or farmers who should not duly produce the accounts and other information necessary for the adjustment of the revenue were to be liable to fine at the discretion of the Board of Revenue.

Regulation III.—1794.

Liability of Proprietors to Arrest defined—Recovery of Money from Native Officers—Precedence of Revenue Suits before others.

Reg. III. 1794.

The preamble stated that from the earliest times a discretionary power had been exercised by the Government, of confining proprietors of land who had failed in the discharge of the public revenue, in addition to attaching and disposing of their property, but that the Governor-general in Council, considering the landed property to be of itself a sufficient security for the public dues, was solicitous to refrain from every mode of coercion not absolutely necessary for the realization of the revenue. In accordance with these views, and at the same time to provide against the undue detention of money, papers or accounts by native officers employed in the attachment of estates, and to expedite the decision of revenue suits, the present Regulation enacted as follows:

That proprietors of land should not be liable to be confined for arrears of revenue, or on account of advances made to them, except in the two following cases: 1st. If the whole of his lands should have been sold, and the proceeds should not have been sufficient to make good the arrears; or, 2d. If his lands should have been put up to sale and no person have offered to buy them.

See Reg. VII. 1799.

The Regulation then provided, that if an arrear of one month remained unpaid on the 15th of the following month, the collector was to demand payment in writing, with a notice that the arrear had become chargeable with interest. In default of payment according to this demand, the collector was to submit to the Board of Revenue a statement of such of the defaulter's lands as he might think it advisable to have sold to make good the amount, and the Board were to direct the sale to be notified. Before the actual sale, the sanction of Government was to be obtained. Lands advertised for sale were to be held answerable for any further arrear that might accrue between the time of attachment and of sale.

The Regulation modified some of the details of preceding enactments, and rescinded the rules of Regulation XIV. of 1793, which enabled a proprietor by a certain process to suspend payment of the arrear demanded; and it directed that the arrear should be paid in the first instance on demand, the proprietor being at liberty to sue the collector in the civil court, when, if he established his case, the amount unjustly received from him would be decreed with interest at 12 per cent.

By the next portion of the Regulation, a course of proceeding similar to that laid down for the enforcement of demands of arrear of revenue was prescribed for the purpose of compelling native officers who should withhold or refuse to give up any public money, accounts or papers in their possession when required so to do. Public servants, when imprisoned for not complying with such requisition, might obtain their release on giving security that they would prosecute the collector within 15 days, for the purpose of bringing the question to issue.

Lastly, the Regulation enacted that the provincial and zillah courts should appropriate one or more days, as they should deem necessary, to the hearing of all revenue cases, which should be proceeded in, notwithstanding other causes, not being revenue cases, had been previously filed.

Regulation V.—1796.

Regulating the Sales of Land in satisfaction of Decrees or for Arrear of Revenue.

Reg. V. 1796. (Rescinded by Reg. XI. 1822.)

The object of this Regulation was so to regulate the sale of lands, that no greater portion of an estate should be sold than was sufficient for the discharge of the amount to be levied, whether under revenue process or in satisfaction of a decree of court. It directed the division of the property into lots, or the sale in one lot, as might appear most for the advantage of the proprietor. If the amount to be levied were raised by the sale of a number of lots short of the whole number advertised, the remaining lots were not to be put up to sale.

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(3.) Regulations for the Administration of Revenue Affairs.

(B.)

Reg. XII. 1796.

Regulation XII.—1796.

Amount of Deposit on purchase of Lands increased, to prevent certain Frauds.

It had been found that defaulting proprietors whose lands were put up for sale, had in many instances, with a view to delay the sale of their property or for other purposes, employed persons to bid for the lands in their own or in fictitious names, and then caused them to abscond before the day on which the purchase was to be completed, leaving the party on whose account the sale was ordered to have recourse to a resale. This practice was much facilitated by the smallness of the deposit required from the purchaser, which by former Regulations was only five per cent., a sum which they were not unwilling to forfeit for the attainment of the object they had in view.

It was enacted by this Regulation, that the deposit should be raised from 5 to 15 per cent.

Regulation VII.—1799.

Improvement of the Process for Attachment and Sale of Landed Property for Arrear of Revenue.

Reg. VII. 1799.

Introductory Remark.

This Regulation was drawn by Mr. Harington, at the time a member of the Board of Revenue. The following note respecting the circumstances which led to its enactment appears in that gentleman's work on the Laws and Regulations of Bengal:—

"At the time when Regulation VII. 1799, (suggested and prepared by the author of the Analysis, then a member of the Board of Revenue) was enacted, the land revenues, notwithstanding frequent sales, had fallen much in arrear, as stated in the preamble and section 21 of that Regulation. It was admitted that the want of punctuality, which had disappointed the reasonable expectations of Government under a permanent assessment, was ascribable in some instances to the insufficiency of the powers vested in the landholders and farmers to enforce payment of the rents due to them from their tenants; and rules were accordingly passed to afford them the means of realizing their rents with greater promptitude and facility. It was further allowed that "frequent and successive sales of land within the current year" had been found productive of material ill consequences, as well towards the land proprietors and their under-tenants, as in their effect on the public interest in the fixed assessment of the land revenue, and this defect was therefore provided against by the rules passed at the same time. But exclusive of these causes of arrear, in which no blame was imputable to the landholders, (on the contrary, if any of the public sales of land in preceding years originated in such causes, they must be regretted) there was reason to believe that several of the principal zemindars (as noticed in section 21, Regulation VII. 1799) purposely withheld the revenue payable by them; and taking advantage of the want of information in the public offices of the actual produce of their estates, from the discontinuance of former checks and securities, encouraged instead of preventing the public sale of portions of their lands, for the purpose of re-purchasing the same in fictitious names at an under-rated assessment, or of reducing the assessment upon the residue of their estates by over-rating the proportion sold."

The objects of this Regulation are thus stated in the preamble:—

The powers which the landholders and farmers of land paying revenue to Government were allowed to exercise, for enforcing payment of the rents due to them from their under-tenants, having in some cases been found insufficient, particularly where the crop not being in the immediate possession of the under-tenants in arrear, cannot be distrained and sold under the provisions contained in Regulation XVII. 1793, and XXXV. 1795. A considerable delay having also of late occurred in the payment of the public revenue due from many of the landholders, which, though ascribable in some instances to the cause above mentioned, could in others be imputed only to a want of good faith on the part of certain of the zemindars and other landholders, who, taking advantage of the delay with which the process for disposing of their lands is unavoidably attended, have withheld payment of their instalments until the day appointed for the sale, and in many instances, there is reason to believe, have bought in their lands when sold in fictitious names, or the names of irresponsible dependents. Moreover, the frequent and successive sales of land within the current year have been found productive of material ill consequences, as well towards the land proprietors and under-tenants, as in their effect on the public interest in the fixed assessment of the land revenue; the Vice-president in Council, with a view to obviate the above injurious consequences hereafter, and to establish a more certain and easy process for enabling landholders and farmers of land to realize their rents, and the officers of Government to enforce payment of the public revenue, without having recourse to sales of land till the close of the year, has enacted the following rules and provisions to be in force throughout the provinces of Bengal, Behar and Orissa, from the promulgation of this Regulation respectively.

The provisions of the Regulation may be classed as follows: first, Rules to give greater power to proprietors to distrain, and otherwise enforce payment of what was due to them from their under-tenants (for which see the head "Recovery of Arrears of Rent"); second, Rules to facilitate the process of summary suit and inquiry before the judicial tribunals on questions of arrear (for which see rules under the same head); and third, Rules to improve the course of proceeding against proprietors antecedent to the sale of lands.

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The portion of this Regulation which relates to the latter of these objects begins at Section 21, and is prefaced by the following remarks:—That rules having been now passed* which would enable proprietors and farmers of land to realize their rents with promptitude and facility, the utmost punctuality would consequently be expected from them in the payment of their rent to Government;—that the coercion formerly practised by confining proprietors had been discontinued, as stated in the preamble to Regulation III. 1794; and it had been hoped, that the permanent assessment on their estates, which they were left to improve to the utmost, without any addition of revenue, would be paid so readily and punctually, as to render it seldom necessary to have recourse to any means of coercion;—that instead of fulfilling these reasonable expectations, many of the principal zemindars had withheld their revenue, and taking the advantage of the want of information in the public offices of the actual produce of their estates, from the discontinuance of the former checks and scrutinies, had encouraged instead of prevented the public sale of portions of their lands, for the purpose of repurchasing them in fictitious names at an underrated assessment, or of reducing the assessment on the residue of their estates, by over-rating the proportion sold;—that with a view of remedying abuses of this nature, as well as to secure the more punctual realization of the public revenue, without the necessity of frequent sales of land in the course of the year, which had been found liable to many ill consequences, and in the hope of enhancing the value of landed property, and of promoting, as far as possible, the ease of the proprietors, by considering their property alone a sufficient security for the public dues, without subjecting them to any personal restraint, except in cases of necessity, the Government had forborne to renew the former usage of confining proprietors, whilst a hope could exist of realizing a fixed assessment on their lands, according to the stipulated periods of payment without it.

The Regulation accordingly enacted as follows: In Regulation III. 1794 it had been prescribed, that if a proprietor did not pay the arrear of one month before the 15th of the month ensuing, a demand was to be served upon him, after which interest at 12 per cent. was to begin, and the lands were liable to immediate sale on the authority of the Board of Revenue. The present Regulation enacted that interest should be due on any arrear from the first of the month on which such arrear became claimable, unless the collector saw special reasons for remitting the interest; in which case he was to report to the Board of Revenue: the collector was immediately to demand the arrear, and if it was not paid, he was to attach such portion of the defaulter's lands as might appear sufficient to realize the amount. A discretionary authority was given to collectors after the arrest of defaulting proprietors or their sureties, to keep them for a period not exceeding ten days, under the custody of peons, instead of sending them to be committed to the zillah gaol, if there seemed a prospect of adjustment within that time. The estate might also be attached and placed in charge of an ameen, but the lands were not to be sold before the end of the year; and if the arrear due should be liquidated at any time before the termination of the current revenue year, the attachment was to be immediately withdrawn, and an account of receipts rendered to the proprietor. If any arrear remained due from a proprietor at the close of the current year, the collector was to report to the Board of Revenue what lands it would be necessary to sell in order to liquidate the amount; and if the whole arrear should not be recovered by a sale of the lands, the remainder might be recoverable from any other property the defaulter might possess, or by imprisonment of his person. Lands attached were to be brought to sale as soon as possible after the close of the revenue year. Collectors holding estates in management (or khas) might proceed against under-farmers in the same manner as against proprietors, under the provisions of this Regulation. Collectors were authorized to use their discretion as directed by Regulation XIV. 1793, in suspending the exercise of their powers in cases in which the defaulter had suffered from inundation, drought, &c., reporting to the Board of Revenue, who might suspend the enforcement, but not remit the payments altogether, without the sanction of Government.

At the time of sale of any lands attached for arrears, a clear specification was to be exhibited, for the information of the purchasers, of the value of the estates sold, and the allotment of the Government revenue upon them; the purchaser was to receive an authenticated copy of that statement, with express notification that the Government did not guarantee to the purchaser any thing beyond the right of the former possessor in the land sold; and moreover, that if the purchaser should, within one year after the purchase, discover any gross mistake or error, rendering the assessment on the land sold much higher than it ought to have been under the rules prescribed in Regulation I. 1793, the Government would cause a new allotment to be made rectifying the error. All purchases of land at the public sales in a fictitious or substituted name would render the land so purchased liable to confiscation, or such other penalty as the Government might impose. All defaulting landholders or others whose lands might be sold for arrear of revenue, were forbidden to be purchasers either directly or indirectly of their own lands; and it was declared to be the duty of collectors who should suspect such illicit purchases, to cause due inquiry to be made into them. If, after a sale, any obstruction was made to the purchaser's being put in possession of the estate, as notified in a proclamation, which was to be published at the head cutcherry of the estate sold, the purchaser was to be put in possession by the civil court, in like manner as possession was usually given by the courts of property adjudged by their decrees. Disputes arising between the purchaser and the under-tenants were to be settled between the parties by due course of law, in like manner as

* Viz. Those in the other parts of this Regulation, for which see "Recovery of Arrears of Rent."

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Reg. XIX. 1817.

as they would have been between the under-tenants and the former incumbent, to whose rights the purchaser had succeeded by the terms of his purchase. Sales of land were to be conducted by the Board of Revenue, without reference to the Governor in Council, except in cases requiring special instructions.

By Regulation XIX. 1817, provision was made for arrest of a defaulting tenant who might be in a different zillah from that in which his land was situated. This was to be done by petition to the judge of that zillah, who, having caused his arrest, might transmit him to the court of the zillah in which the land might be situated, if he did not satisfy the party causing the arrest. It further contains a provision for admitting defaulters and their sureties to bail, pending a summary inquiry.

Regulation I.—1801.

To explain and modify the Provisions of Regulation VII. *of* 1799.

Reg. I. 1801.

The object of this Regulation was to modify and explain, in some particulars, the previous Regulations regarding the recovery of arrears of revenue from proprietors, especially Regulation VII. of 1799.

It declared that collectors, in exercising the powers vested in them by Regulation VII. 1799, of attaching estates in arrear, and administering them until the termination of the year, appeared not to have availed themselves of the discretionary authority vested in them, on their ascertaining that an arrear had accrued in consequence of adverse seasons, and not by the negligence or fault of the proprietor. The Regulation therefore directed, that in no case should such attachment be made within the first three months of the revenue year without the special order of the Board of Revenue, nor afterwards, unless it were with the view and in the hope of inducing speedy payment of the arrear; or to prevent misapplication of rents receivable by the defaulter; or for the purpose of obtaining accurate information of the assets of the estate, with a view to the better distribution of the revenue on the divisions of an estate which had been sold in portions: in either of which cases the attachment might take place after the third month of the year, and the whole estate, not a portion, was to be attached.

When estates should not be attached as above provided, a penalty at the rate of one per cent. per mensem, in addition to interest at the like rate, might be charged on arrears due by proprietors wilfully withholding their revenues. After the first three months of the year, and with the approbation of the Board of Revenue, the attachment of lands was to take place, with a view to eventual sale at the end of the year.

It was notified, that if proprietors should refuse to the collectors the accounts of the assessment and collection of the year, the Governor in Council would exercise his authority of ordering the estates to be sold within the year. A discretionary power was vested in the Board of Revenue, to authorize the distraint and sale of the personal property of defaulting proprietors when difficulties or disproportionate expense might attend the attachment of their land.

In cases in which the value of an estate did not exceed 500 rupees, and also in cases in which the arrear due should fall little short of the computed value of the whole estate, it was declared competent to the Board of Revenue to direct the sale of the whole estate instead of dividing off the portion supposed to be equivalent to the amount of the arrear. In the sale of lands, all established local divisions of known limits were as much as possible to be preserved entire.

With reference to the general rule, that on the sale of lands for arrear of revenue, the engagements between the proprietors and their tenants were to become void, it was provided, that in certain cases where the sale was unavoidably postponed till after the second month of the revenue year, such engagements might be continued in force during the remainder of the year in which the sale should take place, and then become void.

As a further check against collusive sales, collectors were empowered to compel the attendance of proprietors or purchasers, or of any other natives whose presence might be requisite for the purpose of inquiry into the circumstances of the purchase; but they were not to require the attendance of a principal, when that of an authorized agent would be sufficient.

Regulation V.—1812.

Sales of Land not void on certain Grounds—Interest chargeable on Arrears.

Reg. V. 1812.

By this Regulation it was declared, that it should not be competent to the courts of judicature to set aside sales of entire estates, on the ground that some of the sharers had not obtained possession of their interest in the property, nor on the ground of the proceeds having materially exceeded the arrears due.

By Regulation I. 1801, a penalty of 12 per cent. per annum, in addition to the accumulating interest, had been imposed on defaulting zemindars; this penalty was rescinded by the present Regulation, and they were declared amenable only to the payment of interest, which might also be remitted by the Board of Revenue.

This penalty was reimposed by Reg. XII. 1824; and by Reg. VII. 1830, the penalty and interest were consolidated into one demand; and it was enacted, that it should be in all cases exacted, and that the collector should in no case reduce the amount without the special authority of the commission or Sudder Board.

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Regulation XVIII.—1814.

Facilitating the Process for the Sale of Lands for Arrear of Revenue.

Reg. XVIII. 1814. (Rescinded by Reg. XI. 1822.)

It appearing that the Rule for serving written notices in all cases upon defaulters of revenue, as required by Regulations XIV. 1793 and VII. 1799, had been attended with considerable expense to such defaulters, it was enacted by this Regulation, that collectors might notify lands for sale, without the service of such previous notice, but that they were not to proceed to actual sale until the sanction of the Board of Revenue had been obtained. The Board of Revenue were also authorized to sanction the sale of lands without the previous consent of the Governor-general in Council, required by Regulation VII. 1799; with this exception, that in cases of doubt as to the propriety of a sale on the ground of political expediency or danger to the peace of the country, a previous reference was to be made to the Government.

Regulation XI.—1822.

Improved Rules for the Sale of Estates for Arrear of Revenue.

Reg. XI. 1822.

The preamble to the Regulation declared, that the previous Rules relative to the public sales of estates for the recovery of arrears of revenue, were not sufficiently precise as to the conditions necessary to the validity of such sales, or the nature of the interest and title conveyed to the purchasers. It stated, that experience had shown that absolute confirmation of sales in all cases in which the prescribed conditions might have been observed had occasionally operated injuriously, and that it appeared desirable therefore to vest the Revenue Boards with the power of annulling sales, not only if they had been irregularly conducted by the collector, but also in cases in which the defaulters might clearly appear to have been defrauded or deceived by their own agents, or in which the confirmation of the sale might from any cause appear to be a measure of excessive severity, or to be otherwise inexpedient or improper. The preamble further declared, that cases had occurred in which the revenue officers of Government had been executively employed in giving effect to orders issued by the zillah courts, which the decision of the superior courts had declared to be irregular and illegal. Government had been held responsible for the acts done by those officers in virtue of such orders, contrary to the real intent and meaning of the existing law, and it had therefore become necessary to declare that Government was not liable for any errors or irregularities in the proceedings of the courts of justice, whether the revenue officers might or might not be employed in giving effect to the proceedings or orders deemed to be erroneous or irregular.

The Regulation then proceeded to establish the following rules in modification of those before enacted: That it should be in the power of the collectors, with the sanction of the Board of Revenue, to put up for sale the lands of proprietors under engagements to Government, for any arrear or interest thereon that might be due from them at any time of the year, and whether any other revenue process should or should not have been issued —that estates under the management of the court of wards should be exempted from sale for arrears that had accrued under their superintendence—and that joint estates which might be in process of division, and estates under attachment by courts of justice, were not to be sold until the expiration of the year. It enacted that the courts of justice should not be competent to set aside any sale on the ground of irregularity, and it declared the following conditions to be essential to the validity of a sale:—

First, that the lands were *bonâ fide* responsible for the arrear, on account of which they might be sold. Secondly, that the sale had been sanctioned* by the Board of Revenue. Thirdly, that due notice had been given of the sale. Fourthly, that at the time of putting up any lot, some arrear or interest were due upon it. Fifthly, that the sale were made at the time and place stated in the advertisement with due publicity and freedom, as specifically directed in a subsequent part of this Regulation. The Regulation then laid down the detail of the communication between the collector and the Board of Revenue, relative to their sanction of the sale, the issue of the advertisement regarding the sale and its due publication, and the process to be observed in the case of the postponement of the sale.

It was declared to be the duty of the collector or other officer holding the sale, to assure himself that an arrear was due on the lot before it was put up; no statement of payment or tender was to be allowed to stay the sale, nor be admitted as an objection to it by a court of justice, unless it were shown that it had been duly made, and in sufficient time, to the proper revenue authorities. Before knocking down a lot, the collector was to ascertain that the bidder had the means of making the prescribed deposit, that the bidder was not the defaulter or any person acting on his behalf, nor an officer of the collector's establishment, nor a person acting on his behalf, and that the person named as the purchaser was the real purchaser on his own account and risk. A bidder to whom a lot might be knocked down, who should refuse to complete his purchase, was to be fined in a sum not exceeding 100 rupees, or in default of payment was to be confined in the zillah gaol for a period not exceeding

* The duty of sanctioning sales having devolved, under Regulation I. of 1829, upon the commissioners of revenue, it was declared by Regulation VII. of 1830, that the previous sanction should not be requisite to authorize a sale, but no sale was to be deemed final until confirmed by the commission or the Sudder Board. All estates in balance were to be advertised for sale one month from the arrear accruing, and be sold in one month after the date of the advertisement. Reg. VII. of 1830.

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exceeding fifteen days. If a collector saw reason to believe that a purchase had been made in a fictitious name, or for the defaulter himself, he might set aside the purchase, recording his reasons in Persian in his book of proceedings, and against that order the purchaser might appeal to the Board of Revenue: a fictitious purchaser might be fined in an amount equal to the required deposit. If a collector at the time of sale, and before the confirmation of the sale by the Board of Revenue, should see reason to believe the purchase to have been made on account of any person on his establishment, or concerned in the collection of the revenue of the district in which the lot was situated, he was nevertheless to conclude the sale and realize the purchase money. If it should be established on investigation, that the purchase had been so irregularly made, the collector was to report the result to the Board of Revenue, who, if they should consider the fact established, would report to the Government, who would direct whether the lot should be retained on the Government account or be resold, or escheat, or be otherwise disposed of. The purchase money in such case was to be carried to the credit of the defaulter. The purchaser, if he deem himself aggrieved, might have his remedy by suit before the civil court.

If the collector should at any time before delivery of possession discover that a purchase had been made in a fictitious name, he was to make inquiry and report to the Board of Revenue, who might annul the sale, and impose a fine on the party, not exceeding the amount of the deposit.

After a purchaser had been duly put in possession, he was not to be disturbed on the ground of illegality in the purchase, except by a decree of a court of justice in a regular suit. On the fact being established by such decree, it was declared competent to the collector, with the sanction of the Board of Revenue, to fine the fictitious purchaser in a sum not exceeding 25 per cent of the purchase, or if within two years after the sale, to cancel the sale and dispossess the purchaser, returning three-fourths of the purchase price. If the discovery that a purchase had been made by a revenue officer of Government took place after possession had been given, the court passing the final judgment on the case were to communicate their decision to the Government, who would declare the estate confiscated, and order the same to be disposed of as might seem fit to them. The purchase money, as well as the rents for the month during which the sale might take place, were to be answerable for the Government for all arrears of rent and interest, including that accruing for the month of sale; the balance, if any, was to be paid to the proprietor. No sale was to be deemed absolute, nor was possession to be given to the purchaser, until confirmed by the Board of Revenue. Such confirmation was not to take place until thirty days after the sale, within which time it was to be competent to the defaulter to petition the Board against the legality of the sale. After the confirmation of the sale by the Board, the proprietor might contest its validity before a court of justice, who were competent to declare the sale invalid, if any of the essential conditions above stated had not been observed; and if such objection had been duly urged by the party to the Board of Revenue. Although a court of justice could not annul a sale, except on the ground of the non-observance of the essential conditions, yet if they found that the plaintiff had been endamaged by any improper or irregular proceedings of the collector, they might adjudge to him equitable compensation, and declare at the same time whether it should be paid by the Government or by the collector personally; and they might further recommend to the Government that the estate should be restored to the plaintiff, and compensation be made to the purchaser, who, if he deemed the amount of compensation awarded to him insufficient, might appeal to the superior court; the purchaser might also appeal on the question of the propriety of the original court's recommendation. But after the confirmation of sale by the Board of Revenue, the collector was to give possession to the purchaser by public proclamation at his own cutcherry and at that of the civil court, and if requisite might apply to the judge, who would put the party in possession by the process used in giving possession under decrees of court. In the event of points of disputes arising respecting the rights conveyed, or regarding the limits of the lands purchased, it was declared competent to the Governor-general in Council to appoint a civil servant to be a commissioner for investigating the said dispute, and the decision of such commissioner was to stand good until it should be altered or reversed by a regular decree of court.

It was declared that when land should have been sold for an arrear due by the proprietor on account of other land, the purchaser should be considered as having succeeded to the rights of the defaulter as they stood at the time of sale; that in the case of lands sold on account of arrear due by the proprietor for those lands themselves, the purchaser was to receive the purchase free from all incumbrances of sale, gift, mortgage or other assignment, it being a principle that lands were perpetually hypothecated to Government for the revenue assessed thereon at the time of settlement.

In pursuance of this principle, all tenures which might have originated with the defaulter or his predecessor, as representatives of the original engager, and all agreements with ryots made subsequently to the settlement, as well as all tenures which the first engager might, under the conditions of the settlement, have been competent to set aside, alter or renew, were declared liable to be voided or annulled by the purchaser at a sale for arrears, subject only to such conditions of renewal as attached to the tenure at the time of the settlement, excepting always *bonâ fide* leases of ground for building, or gardens, or the like purposes. The foregoing being the general rule, a power was nevertheless reserved to the Government of directing a sale, with reservation of under tenures, due notice of such reservation being given at the time of sale.

It was further declared that the purchasers were not to be entitled to disturb the possession of any village, zemindar, putteedar, mofussil talookdar, or other persons having hereditary transferrible

transferrible property in the lands or in the rents thereof, nor to eject a khoodkhast, a kuddeemy ryot, (or resident and hereditary cultivator) having a prescriptive right of occupancy, nor to raise the rents of such under-tenants, unless they might have held their lands at a lower rent than would have been justly demandable according to the custom of the local division in which they were situated; it was declared competent to persons possessing hereditary rights and occupancy, on whom a demand of increase should have been made which they deemed unjust, to pay their rents as before, until the right should be decided by a competent court of judicature. The provisions of this Regulation were declared not to be intended in any respect to annul or diminish the title of the ryots to hold their lands, subject to the payment of fixed rents, or rents determinable by fixed rates, according to the law and usage of the country.

Provision was made for rectifying errors in the allotment of the revenue on subdivided portions, by the authority of Government, within ten years after the sale. It was declared that the amount of revenue on any lands paying directly to Government could be determined only by the Government, and that no abatement could be made except by the authority of Government.

To enable the revenue authorities to maintain due order, power was given to the Board and to the collectors to punish contempt or disturbance, by fine not exceeding 100 rupees, commutable to imprisonment in the civil gaol not exceeding fifteen days.

It was declared that no liability or responsibility was to be considered as attaching to Government on account of any proceeding or decree of a court of judicature, whether any revenue officer, or other public officer exercising judicial functions, had or had not been employed in giving effect to such orders.

The Regulation contained several rules regarding details.

Regulation XII.—1824.

Interest on Arrears.

The preamble declared that many zemindars of Bengal, Behar and Benares, notwithstanding the advantages which they derive from the permanent settlement, had withholden the public dues until their estates were put up to sale, and that it was consequently expedient to re-enact the penalty of 12 per cent. on all arrears withheld, in addition to the interest accruing at the rate of 12 per cent., and the Regulation enacted accordingly. Reg. XII. 1824.

Regulation VII.—1825.

Sale of Houses and Lands for Arrear, and in satisfaction of Decrees.

This Regulation was enacted in explanation of the rules regarding the sale of lands, especially those in satisfaction of decrees of court. It declared the competency of the judicial officers, without the intervention of the Revenue department, to sell houses, gardens or small portions of lakheraj land. Certain rules for the notification and conducting of such sales by native commissioners, or other persons employed to conduct the sale, were prescribed; and on complaint of the violation of those rules, the court were to investigate the same by summary inquiry, and might annul the sale. Reg. VII. 1825.

When land was to be sold of a description requiring that the sale should be conducted by the Revenue department, the court were to transmit a copy of the decree to the Board of Revenue, with a statement of the lands pointed out by the person claiming the benefit of the decree. The Board were to instruct the collector what lands to sell. In the event of any adverse claim being set up to the lands proposed to be sold, the collector was to communicate to the court, who were to enter upon an immediate summary inquiry into the merits of the claim, and to issue their directions on the subject to the collector. It was declared competent to the civil courts to set aside sales made under their orders, if it should appear to them, on the result of a summary inquiry, that any material irregularity had been committed. Summary decisions of the zillah courts on these subjects were declared open to summary appeal to the provincial courts.

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(3.) Regulations for the Administration of Revenue Affairs. (D.)

PART I.—Land Revenue—GENERAL—*continued.*

(C.)—RULES for the RECOVERY of ARREARS of "RENT" due to those who pay the REVENUE to GOVERNMENT—and regarding SUMMARY SUITS on that Account.

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(C.)

RULES for the RECOVERY of "ARREARS" of RENT due to those who pay the REVENUE to GOVERNMENT—and regarding SUMMARY SUITS on that Account.

REGULATION XVII.—1793.

Recovery of Arrears of Rent due to Proprietors by dependent Talookdars, under Farmers and Ryots.

Reg. XVII. 1793.

THE preamble recited, that the Regulations had not defined the nature and extent of the coercion which landholders and farmers of land might legally exercise over their under-farmers, ryots, and dependent talookdars, in order to enforce payments of arrears of rent or revenue; that in consequence, many landlords and farmers availing themselves of the sanction of former usage, had recourse to the most oppressive means for realizing those arrears, and frequently employed the same severities for purposes of extortion; whilst others, from fear of consequences, refrained from compulsion, and were often defrauded of their just dues. To amend these defects in the Regulation, and to enable landholders and farmers to compel payments from defaulters, without being obliged to have recourse to the courts of justice, the following rules were enacted:—

Actual proprietors and farmers, and also their dependent talookdars and other tenants, were authorized to distrain the crops, cattle, and other personal property of their respective defaulting tenants, and to cause them to be sold in discharge of such arrears; but they were not to distrain lands, houses or other real property, nor any property or money belonging to the Company in the hands of weavers or others employed in the provision of their investment, nor the materials of any weaver or manufacturer, nor the tools of any tradesman or labourer being their tenant. If the defaulter possessed any other property, his cattle and implements employed in husbandry and his seed grain were not to be distrained.

Detailed and particular rules for conducting attachments were given; and it was declared that the attachment of the property of a principal should not exonerate a surety. Power was given to a party whose property should be distrained to cause the attachment to be withdrawn, upon giving security that he would institute a suit to try the justice of the demand before the civil court. A defaulter might also tender the arrear, with the costs incurred, at any time previously to the day of sale, in which case the property attached must be restored. Several rules were laid down to guard against injury, loss or abuse of the property seized, while in possession of the distrainer; and it was directed that the distraint should, as nearly as possible, be proportionate to the amount of the arrear. Transfers of property by a defaulter, to evade distraint, were declared invalid. Persons resisting distraint were declared liable to imprisonment until the property should be restored or the arrear liquidated. The breaking open of an outer door, and entry to the women's apartments, were forbidden; but

but outbuildings and the doors of an open house might be entered. When property should have been distrained, application was to be made to the kazee of the pergunnah to have it appraised and sold. The kazee was to name two competent persons to appraise the property, and the sale was to take place under his superintendence and direction. The kazee was also to examine the distrainer's statement of expenses attending the attachment and sale. Landholders and farmers were declared liable to prosecution, if they to confined or inflicted punishment upon their defaulting tenants. Whenever it might be necessary to attach the property of persons employed in the provision of the Company's investment, or in the manufacture of salt, notice thereof was to be given to the commercial resident or salt agent. Principals were declared responsible for the acts of their agents in distraining property, except in regard to entering a zenana.

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(3.) Regulations for the Administration of Revenue Affairs. (C.)

Persons considering themselves aggrieved by the distraint and sale of their property might obtain redress in the civil courts; and it was ordered, that all suits which might be instituted under this Regulation should be heard and determined previously to any other suits.*

Regulation VIII.—1794.

For expediting the Proceedings on account of Arrear of Rent.

Reg. VIII. 1794.

By the latter part of this Regulation it was enacted, that in causes concerning rent or revenue, or other matters which had been before cognizable in the courts of Mâl Adawlut, between proprietors of land, or farmers holding immediately of Government, and their respective dependent talookdars, and their under-farmers or ryots; or between other persons concerned in the collection or payment of land rents or revenues either as principals or sureties, a zillah judge might refer to the collector, for his report, any accounts the adjustment of which should be necessary towards the decision of a suit before him; on receipt of the collector's report, the judge was to pass such decision respecting the accounts as might appear to him proper. It was provided, however, that the judge should not refer to the collector any accounts relating to suits in which he or any of his public officers or private servants or the Government might be parties.

Regulation XXXV.—1795.

Improvement of the Rules of Distraint.

Reg. XXXV. 1795.

This Regulation was passed to remedy inconveniences extensively complained of, which had resulted from the operation of some of the provisions of Regulation XVII. of 1793. The Preamble stated as follows:

"Government not admitting of any delay in the payment of the public revenue receivable from the proprietors and farmers of land, justice required that they should have the means of levying their rents and revenues with equal punctuality, and that the persons by whom they might be payable, whether under-farmers, dependent talookdars, ryots or others, should be enabled, in like manner, to realize the rents and revenues from which their engagements with the proprietors or farmers are to be made good. Regulation XVII. 1793 was enacted with a view to enable all the above-mentioned descriptions of individuals to enforce payment of arrears of rent or revenue without application to the courts of judicature, as far as the amount might be realizable from the crops and personal property of the defaulter, leaving him to sue in the courts for redress, in the event of any sums being unjustly exacted from him. This was the leading principle of the Regulation; but to prevent so extensive a power being abused on the first delegation of it, provisions were made for obliging the distrainer to withdraw the attachment on property in the event of his demand being contested by the defaulter, and of his giving security to try the justness of it within a specific time in the court of judicature, and to pay interest on the amount with costs in case of its being decreed to be due. These provisions, however, have been found to counteract the object of the Regulation, by the delay often unavoidable in bringing suits to a conclusion, and the opportunity which they afford to defaulters of protracting the discharge of just demands. In large estates, in which extensive tracts of country were under-farmed, the under-farmers often fell in arrear to so considerable an amount, as to render the realizing of the deficiency by the distress of their personal property impracticable. In such cases the proprietors or farmers were obliged to sue the defaulter or his surety in the Dewanny Adawlut for the recovery of the arrears; but as the persons to whom the arrears might be due were not allowed any suspension in their payments to the public whilst the suit was depending, the lands of proprietors were liable to be sold, and the persons and property of farmers were subject to attachment, for deficiencies arising not from their own misconduct or mismanagement, but from breach of engagements on the part of their under-farmers. To obviate the above inconveniences the following rules were enacted."

Those Rules of Regulation XVII. 1793, which required distrainers to withdraw the attachment of distrained property on the person from whom the arrear was demanded denying the justice of the demand, and giving security to bring that question to issue in the civil court within a certain time, were rescinded.

Some alterations relating to the detail of the sale of distrained property were introduced.

All native commissioners, appointed under Regulation XL. 1793, were empowered to sell distrained property, under the rules to be observed by kazees in that respect.

The

* The suits here provided for were regular suits; a more summary process was afterwards provided by Regulation XXXV. 1795.

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(3.) Regulations for the Administration of Revenue Affairs. (C)

The Regulation further provided, that in cases where an arrear exceeding 500 rupees should be due, the proprietor or farmer might demand the payment of such arrear within three days, by a notice to be served upon the defaulter; and in case of his failing to comply therewith, to present a petition to the judge of the civil court, accompanied by a copy of the demand, and praying the judge to commit the defaulter to custody, until he should pay the arrear. The judge was thereupon to summon the defaulter to appear immediately before him, either in person or by an authorized vakeel of the court, and to require him to deliver in an answer to the demand, with any papers or vouchers he might have to exhibit against the demand. On the appearance of the defaulter, the judge was to peruse the answer and the engagements under which the arrear was demanded, and the vouchers for the payments made under it; and after examination of them, and such other summary investigation as he might deem necessary, if it should appear that the sum demanded was due to the party claiming the arrear, the judge was to commit the defaulter to prison until he should discharge the amount with interest, or until on a regular suit the amount claimed should be decreed not to be due.

If the judge, after summary investigation, found the amount demanded not to be due, he was to dismiss the case, leaving the complainant to prosecute his claim by a regular suit in the civil court; and might, in certain cases, order payment of compensation to the defendant.

Persons imprisoned under this Regulation might sue the complainant against them in the civil court for damages; and so likewise persons who should, to avoid imprisonment, pay the demand, though not considering it due, might sue the complainant for the excess over-paid, and might recover damages and costs.*

Regulation VII.—1799.

Further Improvement of the Rules for Distraint.

Reg. VII. 1799.

For the preamble to this Regulation, see "Recovery of Arrears of Revenue." It was provided by the first part of this Regulation, that the powers of distraint vested in proprietors by Regulation XVII. 1793, might be delegated to agents, under certain responsibilities attaching to such agent, besides those incurred by the principal. It shortened the time occupied by notices and other steps, in the course of distraint and sale, and authorized the seizure as well of the security's property as the principal's, provided the distress should not be excessive. A commission of one anna in the rupee was granted to kazees and other duly appointed native commissioners, as a compensation for their trouble and expense in conducting sales of distrained property, to be deducted from the proceeds. Heavier penalties were attached to resistance of process of distraint. Outer doors were permitted to be forced in certain cases, and the apartments of the women were allowed to be entered after due notice. Police officers were to attend the attachment and sales on requisition of the distrainers,† and the courts were directed to fine heavily persons who should be found to have preferred vexatious complaints regarding distraint against the persons causing the attachment, or the public officers employed on such occasions. Strict attention was enjoined to the rules prescribed to civil courts, as to hearing and determining all suits instituted under Regulation XVII. 1793, previously to any others, and as to the appropriation of one day in each week, or two or more days if necessary, for the trial of suits regarding the rent of land and the public revenue assessed thereupon, and it was directed that not only the European courts, but also the native commissioners, should carefully observe this rule.

The Regulation proceeded to state that the provisions of Regulation XXXV. 1795, which authorized a summary proceeding before the judge in cases of default of rent due to proprietors exceeding in amount 500 rupees, had been found in some cases insufficient, inasmuch as the citation required to be sent to the defaulter often caused him to abscond. The limitation of the relief intended to be afforded by those provisions to demands exceeding 500 rupees had been found to encourage fraudulent and evasive conduct on the part of under-tenants. The present Regulation therefore made the following additions and alterations in the law.

Proprietors who could not realize the arrear due to them by the process of distraint were allowed to present petitions for the arrest of defaulting tenants to the judge, or if he apprehended the immediate departure of the defaulter, then to the native commissioner. The commissioner was in such case to cause the party to be arrested; and if the demand was not immediately discharged, to send him within twenty-four hours to the zillah judge. The judge, on the party coming before him, was either himself to make summary inquiry into the justness of the demand, by examining the vouchers and accounts of the party, or he might refer the case to the collector of the district for adjustment and report. If, on the result of the judge's inquiry or the collector's report, any considerable portion of the demand appeared due, the defaulter was to be committed to prison until it should be paid. It was declared, that this Regulation was not meant to define or limit the actual rights of any description of landholders or tenants, which could be properly ascertained and determined by judicial investigation only; but merely to point out in what manner defaulting tenants might

Reg. VIII. 1796.

* It was directed by Regulation VIII. 1796, that the vakeels who might be employed in the summary suits provided by this Regulation, should on the termination of the suit be entitled to a per centage on the amount litigated equal to one-fourth of the fees in regular suits.

Reg. III. 1812.

† It was explained by section 8, Regulation III. 1812, that police darogahs were not to afford aid in such cases, unless it were deposed on oath before them that actual resistance had been made to the distrainer in the exercise of the powers legally vested in him.

might be proceeded against in the event of their not paying the rents due from them, leaving them to recover their own rights, if infringed, in the established courts of justice.

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It was further declared, that the courts of justice would determine the rights of every description of landholder and tenant when regularly brought before them, whether the same were ascertainable by written engagements or defined by the laws and Regulations, or dependent upon general or local usage, which might be proved to have existed from time immemorial.

It was further declared, that the summary judgments which the zillah courts were authorized to pass under Section xiv. of this Regulation, should not be subject to appeal; because any person considering himself aggrieved thereby could have his remedy by a regular suit.

By Regulation II. 1805, it was declared competent to judges to refer summary suits regarding arrear of rent or possession of lands, &c. to their registrars, provided the cause of action were such as would be referrible to them in a regular suit. It was further declared, that summary cognizance was not intended to be given of demands which had been due more than twelve months before such summary proceeding should be instituted.

Reg. II. 1805.

Regulation V.—1812.

Modification of the Rules for recovery of Arrears of Rent.

The first part of this enactment related to the effect of the engagements between proprietors and their tenants, for which see "Assessment of Revenue."

Reg. V. 1812.

By the second part were introduced the following modifications of the rules regarding distraint and sale for the recovery of arrears of rent:—No distress was to be made until the landholder had served upon the defaulter a written demand of the amount, accompanied by a statement of the total assessment, the amount (if any) received in part, and the balance undischarged. Cattle and implements used in agriculture were expressly exempted from attachment under any circumstances.

Some modifications of the rules regarding the suspension of distraints, on security being given by the defaulters to institute a suit within fifteen days for the trial of the justice of the demand, were introduced in this Regulation, but they chiefly related to the detail of that process.

It was enacted, that all summary suits instituted under this Regulation should be tried as summary suits under the provisions of Regulation VII. 1809; and that all such cases should be immediately referred by the zillah judge to the collector of the district for his report.*

Regulation XXIV.—1814.

Summary Suits declared cognizable by Registers of their own Authority, in certain Cases.

By this Regulation the Governor-general in Council was declared competent to invest any registrar who might be stationed under the provisions of the Regulation at a place not being the station of the zillah or city court, with original jurisdiction within local defined limits, in the trial of all cases in which a summary suit was allowed; and the registrar was declared, under such circumstances, to possess the same authority as if the cases had been referred to him by the zillah or city judge.

Reg. XXIV. 1814.

Regulation XIX.—1817.

Summary Suits rendered referrible to Collectors for Report.

By this Regulation it was declared, that judges might at their discretion either refer to the collectors, or themselves try summary suits instituted under Regulation V. 1812. Registrars desirous of making reference in summary suits pending before them might do so, with the previous consent and concurrence of the judge, who would transmit the papers to the collector, and forward to the registrar the collector's report as soon as received.

Reg. XIX. 1817

Provision was made for the service of process and the arrest of defaulting tenants in other zillahs than that in which the rent should be claimed; the proceeding in such case was to be through the court of the zillah in which the defaulter might have taken refuge, and for admitting defaulters and their sureties to bail pending a summary inquiry.

Regulation VIII.—1819.

Liability of the Tenure termed Putnee to be sold for Arrear due to the Zemindar.

This Regulation, the former part of which will be found abstracted under the head "Assessment of the Revenue," p. 753, provided for the recognition of certain tenures granted by zemindars to a particular description of talookdars, and by such talookdars to under-talookdars of the same description. A further object of this enactment was to fix the process by which the said tenures were to be brought to sale for arrear due to the zemindar or proprietor, and the form and manner of conducting such sale. And whereas the estates of zemindars

Reg. VIII. 1819.

* By Reg. II. 1821, it was declared that the provision for summary suits was not intended to supersede the institution of regular suits; and judges were enjoined to encourage regular suits for arrears of rent whenever they would lead to a more satisfactory termination of the points at issue. Zillah judges were authorized to refer to their registrars suits for rent or possession for whatever amount; and judges and registrars were empowered to hold their proceedings in such summary suits in any part of the zillah in which the cause of action may have arisen; but the attendance of the pleaders at a distance from the court was not to be required.

Reg. II. 1824.

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zemindars under engagements with government were liable to be brought to sale at any time for an arrear in the revenue, payable by monthly kists to Government, it had seemed just to allow any zemindar who might have granted tenures, with a stipulation of the right to sell for arrears, the opportunity of availing himself of this means of realizing his dues in the middle of the year, instead of only at the end of the Bengal year, as heretofore allowed by the Regulations in force. It had further been deemed equitable to extend this rule to all cases in which a right of sale might have been reserved in the engagements interchanged between the proprietor and his lessee.

The preamble concluded by stating, that it had become necessary to explain and modify some of the existing rules for the collection generally of rent in arrear, with a view to render them more efficacious, as well as to provide against certain means of evasion resorted to by defaulting tenants.

The enactments of this portion of the Regulation accordingly declared the zemindar to have a right to bring to sale for arrears, either at the end or in the middle of the revenue year, according to certain rules prescribed, the under tenures created by him, denominated putnee talooks, free from all incumbrances or engagements formed by those under-tenants with subordinate holders, except so far as any act or engagement made by himself might have sanctioned them. The principle on which this rule rested was, that the right of a zemindar in the under tenure which he had created being indefeasible, no transfers, mortgages or other assignments, except such as he had registered, or as had been made under express authority obtained from him, could interfere with that right; but no purchaser of a talook or other saleable tenure, intermediate between the zemindar and the actual cultivators, should be entitled to eject a koodkhast ryot (resident hereditary cultivator), nor to cancel *bonâ fide* engagements with such tenants made by the late incumbent or his representative, unless it should be proved in a suit in a court of justice, that a higher rate would have been demandable from the cultivator at the time the engagements were contracted. The sales of under tenures by zemindars were to be made in the zillah court, and the responsibility for conforming to the prescribed rules was to be with the zemindars. With a view to guard the rights of under talookdars, in the event of the sale of the superior interest for arrear, it was declared competent to the inferior holder to stay a sale, by paying in the amount of arrear, such deposit to be considered a loan to the superior holder, re-payable with interest.

The Regulation concluded with explanatory rules relative to the process of attachment for distraint. It had been supposed by many defaulters, that attachment could not issue until the written notice of demand had been duly served, in consequence of which many persons had evaded the service of that process upon them. It was now declared that such service of process was not necessary to precede and legalize attachment, nor was it necessary before instituting a summary suit for arrear, or obtaining the issue of process of arrest against the defaulter. It was further declared, that after the institution of such a suit, a zemindar or other superior holder might send, of his own authority, an officer to attach and collect the rents of the actual cultivators; and further, that when an arrear might have been adjudged due to a zemindar by the decree of a court in such summary inquiry, he "should be at liberty to cancel any lease, farm or other limited interest, intermediate between himself and the actual cultivator, on account of which the rent might have been claimed." This rule, however, was not to extend to koodkhast ryots, or other resident cultivators of the soil, who might be proceeded against at any time during the year by distraint, or by process of arrest and summary suit under the existing rules. Proprietors, talookdars or farmers might institute a summary suit against any koodkhast ryot, or other resident cultivator, for any arrear of rent that might be due at the end of the year; and if an arrear should be adjudged by the court to be due, and the amount were not immediately paid, the plaintiff might be authorized by the court to make such new arrangement as he might judge proper for the future management of the lands in question.

Reg. I. 1820.

By Regulation I. 1820, it was explained that all sales of putnee talooks were to be publicly made in the zillah court; and it was provided that proprietors might apply to the registrar of the zillah court, who would conduct the sale under the Regulations.

Regulation XIV.—1824

Summary Suits rendered referrible to Collectors for Adjudication.

Reg. XIV. 1824.

The preamble to this Regulation stated that the provisions then in force which empowered the zillah judges to refer summary suits to the collectors for report, had been found insufficient to expedite the trial and adjudication of such suits. This Regulation therefore enacted, that in future the reference from the judge to the collector should be to investigate and decide the suits so referred to them. In the trial of such suits the collector was to proceed in the same manner as the civil court would have done, and the decision which he might pass was to be notified as soon as practicable, under the collector's official seal and signature, to the judge of the court from which the suit might have been referred. The collector's decision was to be executed by the judge as far as was consistent with the Regulations under the usual process of the civil court. Collectors might hear and determine such suits in any part of the district in which they might happen to be, provided the proceedings were held in the open cutcherry, and in the presence of the parties or their vakeels. Parties dissatisfied with the collector's judgments might prefer a regular suit in the civil court, and, in such case, the proceedings held on the summary inquiry were to be filed on the record of the regular suit.

PART I.—Land Revenue—GENERAL—*continued.*

(D.)—RULES regarding the REGISTRY and DIVISION of ESTATES, and of their SUBDIVISIONS.

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(D.)

RULES regarding the REGISTRY and DIVISION of ESTATES, and of their SUBDIVISIONS.

REGULATION XI.—1793.

Declaration of the Divisibility of Zemindaries.

THE preamble to this Regulation declared, that a custom, originating in considerations of financial convenience, had been established under the native administration, that the most extensive zemindaries should not be liable to division, but should descend entire to the eldest son or other next heir; that this custom was repugnant both to Hindoo and Mahomedan law, which annexed to primogeniture no exclusive right of succession to landed property, and had a tendency to prevent the general improvement of the country, inasmuch as the proprietors of large estates were unable to bring into cultivation the extensive tracts of waste land comprised within their limits. Rules having been now made for apportioning the revenue on subdivided estates, which rendered the practice above stated no longer necessary on financial grounds, the present Regulation enacted, that whenever an actual proprietor should die, without declaring how his landed property should devolve after his decease, if he should have left more than one heir entitled to share in the landed property, such heirs should succeed to the shares to which they might be severally entitled. If the joint successors should prefer holding the property as a joint undivided estate, they might do so; but each or all might at any time claim the separation each of his own individual share. In cases of subdivision, a distribution of the total assessment was to be made on the subdivided portions, in conformity with the Regulations in that behalf. It was however declared competent to proprietors to leave their estates by will, or otherwise, to single successors, to the exclusion of other heirs, provided such arrangements were not inconsistent with the laws or the parties respectively.* Reg. XI. 1793.

REGULATION XXI.—1793.

Rules for the Preservation of the Records of the permanent Settlement.

THE decennial settlement of the revenue (formed in 1789 and 1790) having been declared permanent, it became essential to the security, as well of the public revenue as of the rights of individuals, that the accounts and papers regarding that settlement, the allotment of the revenue on shares of estates which might be divided, as well as other documents relating to the public demand upon the land, should be carefully preserved; this Regulation therefore provided for the establishment of an office in each zillah for keeping all such records and papers, to be under the superintendence of two natives, who should be denominated "Keepers of the Revenue Records in the Native Languages," and who should be appointed and removed by the Governor-general in Council. Reg. XXI. 1793.

The Regulation contained special rules as to the details of preserving and registering the several documents referred to.

REGULATION

* The operation of this Regulation was suspended as to the Jungle Mehals by Regulation X. of 1800. Reg. X. of 1800.

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Regulation XXV.—1793.

Rules for Apportionment of the Assessed Revenue on the subdivided Portions of Estates.

Reg. XXV. 1793. Rescinded by Reg. XIX. 1814.

Provision having been made by the Regulations for empowering zemindars to transfer by sale, gift or otherwise, their proprietary rights in the whole or any portions of their respective estates (Regulation I. 1793), and estates having also been declared partible on the death of proprietors (Regulation XI. 1793), the present Regulation was framed to prescribe the principles on which such subdivisions should be made, and the assessment equitably allotted on the several portions so subdivided; it was deemed expedient at the same time, to provide for the union of two or more estates, originally belonging to the same zemindary, into one estate. The Regulation accordingly enacted, that the division of zemindaries paying revenue immediately to Government should be effected by the collector, on the application in writing of the parties desiring the division, the proceeding of the collector being first sanctioned by the Board of Revenue. When the division of an estate might take place under a decree, the court making the decree might command the collector to make the subdivision. If the right of a party to claim a division were denied by the other proprietors, the collector was not to make the division until the question of right should have been decided by the civil court.

The collector was authorized, on the application of parties, and with the sanction of the Board of Revenue, to unite several estates into one, and to enter them accordingly in the revenue register.

In distributing the amount of the total assessment on the subdivision of an estate, the collector was enjoined to advert especially to the relative advantages which the respective portions might possess, in regard to soil, contiguity of markets, facility of carriage, and also in regard to the means of improving its resources; and he was to apportion the revenue on due consideration of all these circumstances. The Regulation directed how reservoirs, watercourses, and other things in which a common interest might exist, should be considered. The investigations preliminary to settling divisions were to be made by creditable ameens duly appointed and sworn, whose powers and course of proceeding were laid down in detail in this Regulation. The collector's reports, founded on the proceedings of the ameen, were to be submitted for the final sanction of the Board of Revenue.

If all the parties having interests in an estate should agree together as to the particulars of the subdivision, or if all consented to submit to arbitration thereupon, the collector might proceed upon the result of such agreement, or on the award of the arbitrators chosen.

Power was reserved to the Government, on complaint made to them within three* years after any subdivision, and on proof of inequality of assessment caused by fraud or error at the time of the division, to alter the assessment so as to make it just and equitable. The interests of disqualified proprietors on the division of estates were to be duly protected by the court of wards: absent sharers might be represented by vakeels.†

Regulation XLVIII.—1793.

Rules for the formation of Quinquennial Registers of Estates, and of their Transfers and Subdivisions.

Reg. XLVIII. 1793.

The preamble to this Regulation declared that each estate on which the amount of the public revenue had not been fixed in perpetuity, was liable, in progress of time, to be divided nd formed into two or more estates, either in consequence of one or more of the proprietors equiring the separate possession of their respective shares, or from a part of the estate being ansferred by gift, sale, or other private act of the proprietors, or by public sale; that the ecurity of the public revenue depending upon the allotment of the due proportion on each eparated part of an estate so divided, being made agreeably to the rules of Regulation I. 793, it was necessary, in order to enable the officers of Government to make such pportionment, and to afford to Government the means of tracing every deviation from those ıles, that there should be kept a register of all estates paying revenue to Government, xhibiting the annual revenue charged upon each estate, the names of the proprietors, the ansfers of estates or portions of estates, and the allotment of the public revenue upon ıch portions; also the union of estates which might have originally formed parts of the ıme zemindary, talook or chowdry. It was also declared requisite, both for financial urposes and for the information of the courts of judicature, that there should be a record f the transfer of all districts or lands, from the jurisdiction of one zillah to that of another. he Regulation accordingly directed, that every five years the collectors of the land evenue should prepare registers of all the estates in their respective zillahs, of whatever enomination or description, the proprietors of which paid the public revenue assessed upon

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Reg. XI. 1811.

* This period was extended to ten years by Regulation XI. 1811.

Reg. XV. 1797.

† Regulation XV. 1797 provided for the payment of fees to the collector for the use of Government on the registry of divisions or re-union, or transfers of estates, at the rate of ¼ per cent. on land paying revenue, and 2½ per cent. on lands exempt from revenue; the rate on the first kind to be calculated on the amount of the revenue payable to Government, and of the other on the amount of rents receivable by the proprietor.

upon their estates *immediately to Government*. The term "estate" was defined* to mean "any land subject to the payment of public revenue, for the discharge of which a separate engagement had been entered into with the Government." Detailed rules were laid down regarding the particulars which were to be recorded in the registers, and the forms according to which the entries were to be made. The first register to be prepared was to exhibit the state of all malguzary lands in the native year 1202,† being five years after the formation of the decennial settlement (since declared permanent). As soon as that should have been completed, a register was to be prepared, showing the state of the lands at the permanent settlement. In 1207, and at the end of every five years afterwards, a new register was to be prepared. The books into which the quinquennial register was to be entered, (of which there were to be two, one in English and one in the language of the country, transcribed by the native record keeper,) were to be paged, and each leaf to be signed by the judge of the civil court of the zillah, and on the last leaf of the book the judge was to specify in his own handwriting the number of pages contained in it.

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† A. D. 1795-6. (D.)

A separate book was to be kept, to be in like manner authenticated by the zillah judge, in which all transfers, divisions, &c. were to be entered in the intervals between the formation of the quinquennial registers, and at the end of each five years the new register was to be formed from the preceding register compared with the mutation register.

Duplicates of each quinquennial register were to be sent to the Board of Revenue to be there preserved; the original copy remaining in the collector's office.

Regulation VIII.—1800.

Registers of Divisions and Alienations—Pergunnah Registers.

Reg. VIII. 1800.

This Regulation was enacted in modification and extension of the rules for the preparation of quinquennial registers of lands paying revenue to Government, and of the registers of exempted lands. The quinquennial registers were required to specify the names of all the villages of each estate, and that such registers were to be in three languages and to be copied for the use of the courts of judicature and the Board of Revenue, a detail which was found to involve immense labour. The present Regulation therefore enacted, that the collectors should prepare registers exhibiting the pergunnahs only; detailed directions regarding the entries in the pergunnah register were given in this Regulation. In addition to the pergunnah quinquennial register, intermediate mutation registers were likewise to be prepared for entering all charges, divisions, reunions or transfers of property. At the end of every five years a new pergunnah register was to be prepared from the old, compared with and corrected by the mutation register for that period. The office of canoongoe having been abolished, the records of the sudder or head canoongoe were to be made over and deposited in the Board of Revenue, and those of the mofussil or district canoongoes were to be made over to the collectors.

Regulation I.—1801.

Apportionment of the Revenue on divided Estates.

Reg. I. 1801.

The latter portion of this Regulation contained rules relative to the apportionment of the public revenue on divisions of estates. The principle declared in Regulation I. 1793, was that the assessment of the divided portion should bear the same proportion to the whole assessment, as the "actual produce" of the divided portion bore to the "actual produce" of the whole estate. The present Regulation defined the term, "actual produce of an estate," to mean the net amount receivable by the proprietor, after deducting from the gross produce the actual expense of collection, and other usual charges of management, inclusive of poolbundy, or the expense of embankments, and similar incidental expenses payable by the proprietor from his gross receipts; but exclusive of his malikanah or proprietary income, and all other personal appropriations of the gross produce of his estate. In fixing the revenue on a subdivision, if the collector should have reason to think the putwarries' accounts or those furnished by proprietors to be false, or if he should have obtained from creditable sources, either while holding an estate under attachment by virtue of the power given to him for that purpose in Regulation VII. 1799, or otherwise, three years' accounts of the produce of the land, which he should deem more worthy of credit, he might with the sanction of the Board of Revenue make the assessment on such accounts, and set aside those of the putwarries or proprietors.

"Produce of an Estate" defined.

It was enacted that no sale of a portion of an undivided estate to be held in coparcenary, should be made on account of arrears of revenue without the special sanction of Government.

Several rules were enacted for facilitating and expediting the process of the allotment of the revenue on divided portions, especially where the whole lands were so divided, and all the parties consented to the allotments, so that they might the more speedily be put into possession of their respective shares; but it was declared that all new allotments of the assessment

* By section 13, Regulation VIII. of 1800, which prescribes certain alterations in the forms of the pergunnah register, this definition was extended to include all lands separately assessed with the public revenue, although no separate engagement should have been executed for it to the Government, as in the case where lands might be under attachment, and administered by an officer of Government, or by a manager for the benefit of a disqualified proprietor.

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assessment were to be subject to the final confirmation of the Board of Revenue, and in the event of any reduction of the fixed assessment, the previous sanction of Government was to be obtained. Persons causing wilful and vexatious delay in the partition of estates were to be liable to fine.

Regulation VI.—1807.

Division of Estates limited to Portions of a certain Value.

Reg. VI. 1807. (Rescinded by Reg. V. 1819.)

Considerable loss and inconvenience having been experienced in the collection of the public revenue from the too minute subdivision of landed property, the Regulation enacted that no estate the assessment of which should be less than 1,000 rupees should be liable to be divided, and that no division of land should be made unless each portion proposed to be divided should be liable to be assessed with a jumma of not less than 500 sicca rupees.

Regulation V.—1810.

Facilitating the Division of Estates.

Reg. V. 1810. (Rescinded by Reg. XIX. 1814.)

This Regulation stated that the existing rules for the division of landed property paying revenue to Government were in many respects defective, inasmuch as they did not sufficiently provide against the artificial delays and impediments which were frequently thrown in the way of the process of division by one or more of the parties concerned, or (as often happened) by the officer employed in conducting the details of that process, and that these rules did not effectually secure Government from the loss resulting from fraudulent and collusive allotments of the public revenue on the shares of estates when divided. There was, moreover, reason to believe that the restriction which had been laid on the partition of small estates by Regulation VI. 1807 had been and still was the cause of considerable injury to numbers of individual sharers in such estates, inducing a sacrifice of private rights, which the degree of public inconvenience, arising from the minute division of landed property, did not appear to be of sufficient magnitude to justify or require. With a view, therefore, to remedy these defects; to expedite the division of landed property paying revenue to Government (when properly authorized, with due regard to the permanent security of the public revenue), whatever might be its amount; and to obviate the injury to which individual sharers were liable, in the case of a joint estate being brought to sale for balances which might have arisen from the default of their coparceners during the interval while the process of division was pending, the present Regulation enacted, that on application being made to a collector for the subdivision of an estate, or any part thereof, he was to make public notification that he would proceed in such division in fifteen days, unless objection were made to the right of the party claiming the division. The allowance to the ameen deputed to make the division of lands was altered from a personal monthly allowance to a per centage on the assessment, liable to be forfeited or diminished if the partition made by him should not be confirmed by the Board of Revenue, or if he did not perform his duty within a prescribed time, in no case exceeding three months. It was directed that a register should be kept in English of all confirmed divisions; and it was further enacted, that in the event of any distinct estate being sold for arrear of revenue within three years from the date of the confirmation of the division, it was to be the duty of the collector to endeavour to ascertain, by every means in his power, whether the arrear had accrued in consequence of any fraudulent or erroneous allotment of the assessment, and in such case to make a full report to the Board, who would determine as to the necessity of a new allotment of the assessment being made on the portions respectively. In the event of an estate falling in arrear while the division into portions was under preparation, it was declared competent to any shareholders to pay the arrear due on their own proportion of the estate, and in such case, if a sale eventually became necessary, those portions only were to be sold which appertained to the defaulting coparceners.

Regulation XVIII.—1812.

Effect of Leases on the Subdivision of Estates.

Reg. XVIII. 1812. * *See* Head (A.)

This Regulation explained the intention of Regulation V.* 1812 to be, that all proprietors having a permanent interest in their estates might grant leases even to perpetuity, and that persons having restricted interest might grant them to the full extent of the duration of those interests; and it further enacted, that in the event of a division of an estate, or of the transfer of the whole or part under any circumstances, such leases should remain in full force; but they were not to be taken into consideration in affixing the portion of the public revenue on a division, but such apportionment was to be made on the principles prescribed in the Regulations in that respect.

Regulation XIX.—1814.

Consolidated and amended Rules for the Division of Estates.

Reg. XIX. 1814.

Reg. XV. 1793. Reg. I. 1801. Pts of V. 1810.

The object of this Regulation was to consolidate with amendments and improvements the several Regulations regarding the partition of estates paying revenue to Government, and it enacted as follows:

Divisions of estates were to be made by the collectors of the land revenues; joint estates might be divided on the application of the shareholders, and on their defraying the expenses attending

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attending the process. On receipt of an application, the collector was to publish an advertisement. notifying his intention to proceed to the division in fifteen days, unless any person having an interest in the estate should deny the title of any claimant to a division, in which case such division was not to be proceeded in, until the question of right should have been decided by a court of justice. Whenever a court of justice might adjudge to any one a litigated right in a portion of an estate, they were to decree that the whole expense of the portioning and giving possession, and assessing the revenue on the portion, should be borne by the party who had withheld the right decreed, unless special reasons should exist for directing otherwise. Collectors might re-unite separated portions which had previousl formed entire estates.

The new subdivisions which were to form new estates were to be as compact as possibl When a division of an estate was to be effected, an ameen was to be appointed by the col lector to prepare the detail, who was to receive a commission, graduated according to th value of the estate. Such commission might be stopped by the Board of Revenue, in the even of the ameen's not discharging his duty satisfactorily. It was to be the duty of the amee to survey the different parts of the estate in person, that he might be enabled to select th lands which should form each subdivided estate. Proprietors were required to furnish th ameens with all accounts and information necessary to the due discharge of their dut When an ameen should have completed a division, he was to submit his detailed report t the collector, who, after having examined the documents, and received any remarks tha should be offered by the sharers or their vakeels, was to draw out a paper or petition, whic he was to transmit to the Board of Revenue, furnishing the sharers also with a copy of i If all the sharers should sign a deed of consent to the partition statement, or if none shoul object within fifteen days from the presentation of the paper to them, the collector was t put the several parties into possession; but the allotment of the assessment was not to b deemed conclusive, until it had been sanctioned by the Board of Revenue. If any of th parties objected to the partition statements, such objections were to be submitted to th Board of Revenue; and the parties were not to be put in possession until they were de termined upon. The decision of the Board of Revenue on the division statement was de clared to be final, and they were authorized to fine persons making ungrounded or litigiou objections to the collector's division statement; and also to fine persons withholdin required accounts or information. It was declared competent to parties to make the division and allotments by consent among themselves, or by reference to arbitrators of their ow choosing. The accounts of divisions so made were to be submitted to the ameens for the examination and approval; and for such service, the ameens were to receive one-half of th remuneration to which they would have been entitled had they made the division themselve When an estate should have been divided into precisely equal shares, the several parties wer to draw lots for the portions, unless they should agree among themselves on the shares the would respectively take. The Governor-general in Council reserved to himself the right c rectifying errors in the assessment, whether fraudulent or otherwise, if established within te years after the allotment of it had been made on the divided shares; the interests of dis qualified landholders were to be protected by the Court of Wards, and of minors by the guardians; until the division should be finally settled, the whole estate was to remain subje to the payment of the assessment. A register was to be kept in a prescribed form of a confirmed partitions. If an arrear should become due from an estate while under the proces of division, any shareholder was declared at liberty to tender to the collector the proportio of the arrear due upon his share, and thereby exempt it from sale, while the remainder woul be transferred by auction to a new purchaser.

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PART I.—Land Revenue—GENERAL—*continued.*

(E.)—RULES relative to the RIGHT of holding LANDS free from, or at a low RATE of ASSESSMENT; and to other ALIENATIONS of the REVENUE of GOVERNMENT: and regarding MONEY PENSIONS.

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(E.)

RULES relative to the RIGHT of holding LANDS free from, or at a low RATE of ASSESSMENT; and to other ALIENATIONS of the REVENUE of GOVERNMENT: and regarding MONEY PENSIONS.

*REGULATION XIX.—1793.

Investigation of Title to hold Lands exempted from Payment of Revenue on Grants not Royal.

Reg. XIX. 1793. Grants not Badshahi. (E.)

THE Preamble began by asserting, that according to the ancient law of the country the ruling power had always been entitled to a certain portion of the produce of every begah of land (demandable in money or kind according to local custom), unless it transferred its right to the whole or a portion of such produce for a term or in perpetuity. It was stated to be a necessary consequence of this law, that if a zemindar made a grant of any part of his lands to be held exempt from the payment of revenue, such grant must be void, because it was an alienation of the dues of Government without their sanction, and the admission of such grants would lead to the gradual diminution of the Government revenue.

The preamble then proceeded to state, that previously to the Company's accession to the Dewanny, several such grants had nevertheless been made, not only by the zemindars, but by the officers of Government appointed to the temporary superintendence of the collection of the revenue, under the pretext that the produce of the lands was to be applied to religious or charitable uses; that under this pretext, however, the real object was the personal advantage of the grantee, or in some cases of the grantor himself; that since the accession of the British Government to the Dewanny, they had at various times declared all alienations made subsequently to their accession, without their sanction, to be illegal and void; but they had adopted it as a principle, that grants anterior to the date of the Dewanny should be considered valid, to the extent of the intentions of the grantor, provided the grantees had obtained possession of what had been so granted to them. This indulgent principle had led to

* This Regulation re-enacts in the prescribed form the rules respecting lands exempted from payment of revenue, which had been promulgated by the Government under date the 1st December 1790.

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to an abuse of considerable extent on the part of zemindars, farmers and public officers in charge of the collections of revenue, who had made extensive grants, in many instances antedating them, as if issued before the Company's accession to the Dewanny, and in others merely leaving the grantees to retain possession as they could. These abuses had been rendered practicable, in consequence of no complete register of exempted lands having been formed. The preamble proceeded to declare, that it was incumbent on the Government to recover the public dues, thus alienated in opposition to the ancient and existing laws of the country, as well as to resume the revenues of all lands the grants of which should expire; with this view it had been made a rule at the time of forming the decennial settlement, that all exempted lands, whether duly or unduly so exempted, should be excluded from the assets on which that assessment was to be fixed; it was thus rendered incompetent to proprietors to receive the revenues of such lands, and the Government had reserved to itself the power of assessing such as might be deemed liable to the payment of revenue, on their being proved to be held under illegal or invalid titles. It was declared to be equally the desire of Government, that on the one hand, lands illegally exempted should be duly assessed with the public revenue, and on the other, that persons holding valid grants should be secured in their possession and enjoyment. With these views, and to obviate injustice or extortion in the inquiry into the titles of persons holding exempted lands, it had been resolved that the claims of the public on such lands should be tried in the courts of judicature only, provided the holders should have first registered their grants under the provisions of this Regulation.

The following rules were enacted for the guidance of the courts of judicature in this inquiry.

Of Grants anterior to the Dewanny.

1st. Grants of land to be held exempt from the payment of revenue, which had been made, and of which the grantee had obtained *bonâ fide* possession before the 12th August 1765, and which had not been subsequently rendered subject to the payment of revenue, were declared valid.

2d. If any lands so exempted had been subsequently subjected to the payment of revenue by any officer of the Government, and if the court had doubts of the competency of the officer so to assess them, they were to refer on that point for the decision of the Government, which was to be conclusive thereupon. If the grant in question, however, were either by its express terms or by the usage of the country a life-grant only, the holder could not claim the benefit of exemption; except in cases of life-grants on which one or more successions had taken place previously to the date of the Dewanny, in which cases the Government reserved the right of determining whether such lands should or should not be assessed. Grants being by their terms or by usage only life-grants were not to descend to the heirs of the actual holders.

Grants subsequent to the Dewanny.

All exemptions from the payment of revenue made after the 12th August 1765, and before the 1st of December 1790,* not sanctioned by the Government, or by some of its officers duly empowered, were declared invalid. Questions of doubt as to the authority of public officers to exempt were to be referred to the Governor-general in Council. The exemptions of land, the annual produce of which did not exceed 100 rupees, authorized by the chiefs of the late Provincial Councils, were to be deemed valid, as well as all grants not exceeding 10 begahs, granted before the Bengal year 1178, the produce of which was *bonâ fide* appropriated as an endowment for temples, or to the maintenance of Brahmins or other religious or charitable purposes. A. D. 1771-2.

Several rules follow for determining the amount of revenue which should be assessed upon lands, resumed according to the particular circumstances and times of the previous exemption.

All grants exempting lands from the payment of revenue made subsequently to the 1st December 1790, by any other authority than that of the Governor-general in Council, were declared null and void, and the revenue thereof was declared to belong to Government; and no length of possession was to be in future considered as giving validity to any such grant.

Grants made subsequently to the 1st December 1790, whether more or less than 100 begahs, were declared null, and proprietors were to be at liberty to resume all such lands, without any increase to their assessment on that account.

The next rule referred to the trial of the validity of titles to exemption from revenue before the courts of Adawlut. The duty of prosecution was declared to belong to the collector, with the previous sanction of the Board of Revenue, and the collector was to be rewarded by a commission† of 25 per cent. on the amount of the revenue which might be assessed on the land, in consequence of its having been adjudged liable to the payment of revenue, under a decree obtained by him. The collectors were authorized to require the production of title-deeds, and in the event of the holder refusing to produce them, the lands might be resumed, and administered by the Government officers until the decision should be passed.

The

* The date of the Rules incorporated into this Regulation.

† This commission is extended by Regulation LVIII. 1795, to lands resumed on account of non-registration on the report of the collector.

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The holders of grants of exemption, which might be set aside by the courts, were not to be required to pay revenue accruing before the date of the first decree adjudicating the land liable to such payment.

Grants of exemption which from their express terms or the nature of the tenure were hereditary, and which should be found valid, were declared transferrible by gift, sale or otherwise. All persons succeeding to such grants were required to register their names within six months of their succession, in the office of the collector.

The Regulation further directed the form and mode in which registers were to be severally prepared and kept of lands resumed and of lands held free in conformity with the provisions of this Regulation, specifying the effect of registry and of omission to register, the weight to be attached to the entries as evidence, and it prescribed the transmission of copies of the periodical register to the civil court of the zillah, the Board of Revenue and the Sudder Dewanny Adawlut.

Regulation XXIV. 1793.

Money Pensions by Sunud or Patent.

Reg. XXIV. 1793.

It had been declared in Regulation VIII. of 1793, that the allowances of kazees and canoongoes, which had theretofore been paid by the landholders, as well as public pensions paid through them, should be added to the amount of the assessed revenue, and should thenceforward be paid by the collectors. The present Regulation declared the rules under which the continuance or discontinuance of such pensions* should be determined, including also pensions formerly paid out of the sayer, the landlord's right to collect which had been abolished by the same Regulation.

† Patents.

The Regulation enacted that all pensions received under Sunuds† granted previously to the Company's accession to the Dewanny, and all granted since with the sanction of Government, should be continued during the lives of the grantees. Pensions not so granted were to be discontinued, unless the pensioners were real objects of charity, or unless they had received their pensions in Bengal, Behar and Orissa before 1772. Pensions were declared not hereditary, and only renewable under the sanction of Government. Collectors were empowered to decide on claims to pensions not exceeding 50 rupees per annum, subject to an appeal to the Board of Revenue. On all above that sum he was to report to the Board of Revenue for the orders of Government. Pensions not exceeding 50 rupees were to be paid through the kazees of the respective pergunnahs.

See Reg. XI. 1813.

The Regulation contained specific rules regarding registry, the issue of certificates ascertaining identity, and other details. The civil courts were declared to have no jurisdiction in determining claims to pensions, but might take cognizance of complaints against collectors for withholding pensions duly sanctioned and certified according to the provisions of this Regulation.

Regulation XXXVII.—1793.

Investigation of Titles to hold Lands exempted from Payment of Revenue on Royal Grants.

Reg XXXVII. 1793.

The preamble to this Regulation asserted the same principle as that declared in the opening of Regulation XIX. 1793, viz. that all alienations of the Government revenue without the consent of the Government are null and void. The Regulation before referred to had provided for the resumption of such grants as should be decreed by the civil courts to have been made by individuals, whether officers of Government or zemindars, of their own authority. The present Regulation related to grants made by the native Governments themselves, and termed Badshahi or Royal.

The preamble stated that under the native Governments grants were occasionally made of the Government share of the produce of lands for the support of the families of persons who had performed public services, for religious or charitable purposes, for maintaining troops, and for other services; that the British Government had continued to the grantees, or their heirs, such of these grants as were hereditary, if they had been made and possession had been obtained before the date of the Company's accession to the Dewanny; but it was stated, that such grants as were for life only had been invariably considered as resumable on the death of the grantees. The preamble then adverted to the duty of Government to regard equally the protection of the public revenues and the rights of individuals, and to adopt measures requisite to the support of the one consistently with the due maintenance of the other.

The Regulation proceeded to enact rules similar in principle to those of Regulation XIX. 1793, adapted to the different nature of the right conveyed by the superior authority of the grantor. After declaring all Badshahi grants with possession anterior to 12th August 1765 to be valid; that Badshahi grants should only be resumable when pronounced to be invalid by the decree of a court of justice; and that grants which, by their express terms, or by the nature of the tenure and by usage, were only life-grants, should determine on the death of the holders; it was declared that the rules of this enactment were to be considered as relating only to the Government proportion of the revenue, from lands held or claimed to be held under

Reg. XXII. 1806.

* By Regulation XXII. 1806, the rules regarding the continuance of pensions were in some particulars modified, and provision was made for the commutation of pensions in all practicable cases for grants of waste land rent-free; the quantity of land in ordinary cases to be equivalent to the amount of the pension when brought into cultivation, and pecuniary assistance to be given towards the first cultivation, not exceeding the amount of one year's pension.

under Badshahi grants, and to the question whether the Government was or was not entitled to resume or retain such revenue; and that they did not relate to questions of the zemindary or proprietary right to the lands included in any such grant, which questions were to be considered as of a distinct and private nature between the contending parties, open to be tried and determined between them in the civil court.

When a jaghire or other life-grant should escheat to Government, the collector was immediately to attach the revenue of the lands, and to report to the Board of Revenue, who would obtain the orders of Government regarding its final resumption. Lands included in expired or resumed Badshahi grants were to be assessed, and the revenue to be paid by the proprietor according to the principles of the decennial settlement.

The proceedings by the collectors for recovery of lands held under invalid Badshahi grants were to be the same as those directed in regard to grants not Badshahi. *See* Reg. XI. 1819.

Altamgah, Ayma and Muddud Mash grants were declared hereditary, and the holders were authorized to transfer them; but persons succeeding to such grants were to register their names in the collector's office within six months; but no transfer was to relieve the land from assessment, if the original title proved invalid. Jaghires were declared to be life-tenures only, unless expressly stated to be otherwise in the grant. The remaining provisions of this Regulation corresponded with those of Regulation XIX. of 1793.

Regulation XLIII.—1793.

Grants of Land in Jaghire to invalid Officers and Soldiers of the Company's Native Army.

Under date the 18th February 1789, certain resolutions had been passed by the Bengal Government, having in view to make a comfortable provision for native officers and soldiers no longer fit for service, and for their families, by substituting allotments of land for the money pensions before paid. These resolutions prescribed the proportions of waste land to which those persons should be entitled according to their rank; the lands were to be granted either in Circar Bahar, Shahabad or Rotas, and in such village as each individual might point out, power being reserved to the Government of making such grants in other places. The resident at Benares, and the collectors at Bahar and Shahabad, in selecting the lands, were to have in view the facilities for cultivation and other benefits intended to be imparted to the grantees; the original grantees were to hold the lands rent-free for life; the grants for land in Benares were to be under the seal of the rajah, with a warrant of confirmation under the seal and signature of the resident; the grants in Bahar, Rotas and Shahabad, were to be under the seals and signatures of the collectors of those districts. On the death of the original grantees, the lands were to be continued to their heirs at a permanent assessment, to be fixed in Benares by the resident, with the consent of the rajah; in the other districts by the collectors, upon an estimate of the actual net produce, after deducting one-tenth to be paid to the zemindars as malikanah; the tenure thus constituted was of the kind called mocurrery or perpetual; if the original grantee died within five years from the date of his grant, the heirs were to hold the land, free of assessment, until the expiration of the five years from the date of the grant. These mocurrery leases were declared liable to sale for arrear of revenue. Reg. XLIII. 1793.

Under date the 24th December 1790, the following declaration was added to the foregoing resolutions, with a view to obviate any objections which landholders might entertain to the allotment of waste land to invalids, namely, that the assessment payable on the lands, after the death of the original grantee, belonged to the proprietor of the village in which the lands were situated, and that no additional demand on the part of Government would be made on that account from such proprietor beyond the engagement subsisting between him and the Government previously to the time when the assessment should have become payable on those lands.

The present Regulation was enacted to establish such part of the former rules on this subject as were intended to remain in force, and were proper matter for a Regulation.

The preamble stated, that justice and policy required that the Jaghire establishment for invalids should be put upon such a footing as to render it productive of the benefits originally expected from it, viz. a comfortable retreat for worn-out native soldiers, with an ample subsistence for themselves during their lives, and decent provision for their families after their decease. That it was essential to the attainment of these objects, that the land to be allotted to them should be procured without any infringement of the rights of the zemindars; that the Governor-general in Council had, on the 25th February 1793, framed a Code of Laws for new-modelling the establishment, in which provision had been made for obtaining the lands from proprietors on lease or by purchase, and for delivering them to the invalids in such a state as to enable them to render their respective jaghires immediately productive; and that provision had been also made for withdrawing the interference of the regulating officer, on the death of the original grantee, and leaving the heirs to blend with the mass of the community, secured by the Regulation, in the enjoyment of their rights.

The principal rules thus re-enacted by the present Regulation were as follows: The establishment of villages for invalids were to be in the several zillahs of Boglepore, Behar Proper, Shahabad, Tirhoot and Sarun, and were to be under the immediate superintendence of an officer, to be denominated "regulating officer;" the waste land to be allotted for the formation of a tannah or village for invalids was to be procured by the collectors on lease from the zemindar, on behalf of Government, on the following terms: that the lands should continue attached for ever to the zemindary; that the invalid grantee should hold the land, rent-free, during his life; that after his death it should devolve to his

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heirs, who, for the first five years after coming into possession, were to pay one-tenth of the produce as malikanah in acknowledgment of seigniory; that after those five years the land was to be assessed with a net-rent, equal to two-thirds of the amount paid for other lands in the district of the same description and quality; this rent not to be liable to any variation, and to be paid to the proprietor: if the invalid should die within seven years from the date of the grant, the exemption was to be continued to his heirs until the completion of the seventh year from the date of the grant; after the termination of which period the tenure of the heir was to begin on the terms on which pension lands were held on succession, namely, that the heir should for five years pay ten per cent. of the produce, and afterwards two-thirds of the usual assessment on lands of a similar value. On the arrival of the period for assessing such lands, such parts as might be found not to have been cultivated, though capable of cultivation, were to be resumed, and given back to the proprietor, who might grant pottahs for them to whomsoever he might think proper. The jaghire, when fully assessed, was to form part of the estate of the original proprietor, and the rent was to be paid to him by the jaghirdar; but until that time the rent and malikanah were to be received by the collector, and to be paid by him to the proprietor; but no increase of revenue was to be levied from a zemindar, on account of the benefit he might derive from a lease of waste lands under this Regulation. On a jaghire becoming charged with a permanent assessment, the regulating officer was to obtain for the jaghirdar a pottah from the proprietor, stating the terms on which the land was to be held, the amount of the rent and the measurement of the land; and after that, the interference of the regulating officer, in regard to that jaghire, was to cease.

The Regulation contained many other provisions relative to the interests of the invalids to whom such jaghires might be granted, and for providing for the adjustment of disputes between them, by the authority of the regulating officer and by reference to arbitration. These rules had especially in view the ease and comfort of the invalid soldiers, for whose benefit the establishment was prepared, and whose habits of life were supposed to render them ill suited to acquire a knowledge and conform to the general regulations and laws of the British Government; at the conclusion of the Regulation, the original rules dated 18th February 1789 were recorded.

Regulation LVI.—1795.

Extension of the Period during which Heirs of invalid Military Jaghirdars were to hold their Lands free from Assessment.

Reg. LVI. 1795. (Rescinded by Reg. I. 1804.)

The preamble declared that the period of seven years during which land granted to invalid soldiers under Regulation XLIII. 1793 was to be held rent-free by their heirs, in the event of the grantee's death before the expiration of that time, had not been found sufficient to enable persons subject to such peculiar disadvantages as they were, from want of skill and bodily infirmity, to bring fresh lands into cultivation; and that they were consequently under the necessity of employing persons to cultivate their lands for them at a heavy expense; this Regulation therefore extended the period from seven to ten years, with the view of ensuring to the heirs the full benefits which it was intended they should derive from the grants. The Regulation also provided for leave of absence being granted to invalids by the regulating officer.

Regulation I.—1804.

Final Assessment of Military Jaghire Tenures.

Reg. I. 1804.

This Regulation consolidated the rules of Regulations XLIII. of 1793, and LVI. of 1795, with a few modifications; the most important of which were, that the proportion of the annual produce which was to constitute the final assessment payable to the zemindar, was fixed at two-fifths of the annual produce, instead of two-thirds of the rent paid for similar land in the district; and that if the heir to a jaghire held under this Regulation should, without reasonable cause, leave the land uncultivated for one year after being ordered to be put into possession, the land should be deemed forfeited; and either be transferred to another invalid or revert to the zemindar. A new scale of the quantity of lands assignable to the different ranks was fixed, and the collectors were ordered to regulate the assignments accordingly. It was also enacted, that whenever a new tannah or invalid jaghire station should be established, or any existing one be extended, the land taken in for the purpose should be completely cleared by the collector of the zillah at the expense of Government.

The Regulation further contained rules for the payment of a reduced pay to native officers and soldiers, who should prefer receiving such an allowance to being transferred to the jaghirdar establishment, and for the payment of such allowance by the collector.

Regulation XI.—1808.

Rent payable by the Heirs of invalid Jaghirdars.

Reg. XI. 1808.

The preamble to this Regulation stated, that the alteration effected by Regulation I. of 1804, in the rent payable by the heirs of invalid jaghirdars, was not intended to increase the rate of rent receivable by the zemindars for such lands, but was adopted on the supposition that while the method of computation would be more easy, the application of the new rule would afford nearly the same result as the provision in Regulation XLVIII. of 1793. It having however appeared, on information since submitted to Government, that such had not always been the case, the present Regulation provided that the collectors should

should adjust the rent of land to be paid by the heirs of invalid jaghirdars, on the principle that the zemindars should be entitled to receive a net rent equal to two-thirds of the amount paid for other lands in the district of the same description and quality. The decision of the collector to be binding on the zemindar, and to be the guide of the courts in their decisions on such questions.

Regulation XIX.—1810.

Administration o Endowments for religious and charitable Purposes, to be under Control of the Revenue Authorities.

The preamble recited that several endowments had been granted in land by the preceding Governments of India and by individuals, for the support of mosques, Hindoo temples and colleges, and for other pious and beneficial purposes; and there were grounds to suppose, that the produce of such lands was in many instances misappropriated, contrary to the intentions of the donors, to the personal use of the individuals in the immediate charge and administration of such endowments. It was declared to be an important duty of every Government, to provide that all such endowments be applied according to the real intent and will of the grantors. The preamble further declared the necessity of providing for the maintenance and repair of bridges, serais and other buildings, which had been erected either at the expense of Government or of individuals, for the use and convenience of the public, and also to establish proper rules for the custody and disposal of escheated property. Reg. XIX. 1810.

To provide for these several objects, the Regulation accordingly enacted as follows:—That the general superintendence of all lands granted for the purposes above stated, should be vested in the Boards of Revenue, whose duty it should be to take care that the endowments were duly appropriated, and that the public edifices endowed should be duly repaired and maintained; the Boards submitting, whenever necessary, estimates of the expense of repairs for the approval of Government. The superintendence of those Boards was likewise extended over all escheated property, and they were required to report to Government their opinion of the best mode of disposing of it; that local agents should be appointed in each zillah, who were to act under the directions of the Boards, making all necessary inquiries and reports, and executing the orders which they should receive; they were also to report how the persons appointed managers, trustees or superintendents, discharged their duties; upon any vacancies occurring in those appointments, they were to report in whom the right of nomination had usually vested; if it were in the Government, the local officers were to propose for the approbation of the superior Board fit persons to succeed to the charge; the collector of the zillah was to be *ex officio* one of the agents, with any other persons whom the Government might see fit to appoint.

Regulation II.—1811.

Abolition of the System of granting Lands to invalid Soldiers.

The preamble to this Regulation stated, that the assignments of land for the support of invalid native officers and soldiers had not been found productive of the benefits contemplated; that difficulties had occurred in obtaining the lands required, and when procured and rendered fit for tillage, they had often proved insalubrious from the vicinity of other lands overgrown with extensive forests. In consideration of these and other inconveniences, the present Regulation declared the provisions of the previous enactment for allotting land, to have no effect in future, and directed that native officers who should be invalided subsequently to the date of this Regulation, should receive an advance of six months' invalid pay, according to certain rates, and should be allowed to retire to any part of the Company's territories they might choose.* Reg. II. 1811.

Regulation XI.—1813.

For the Prevention of Abuse in drawing Money Pensions.

The preamble stated, that frequent abuses had been committed in the receipt of pensions, by which the Government was annually defrauded of considerable sums, and individuals derived pecuniary advantage from practices which in fact merited exemplary punishment. This Regulation, therefore, directed a temporary suspension of all pensions in the civil department, for the purpose of enabling collectors to revise the pension lists, and to require each pensioner to prove his right, in conformity with the principles of Regulation XXIV. of 1793. Provision was made for the transfer of the payment of pensions to the district most convenient to the pensioner; for the preparation of proper registers; for the due entry of all lapses and transfers; for the personal appearance of pensioners at stated periods; and otherwise for the prevention of fraud. Reg. XI. 1813.

Regulation II.—1819.

Improved Rules regarding Lands held exempt from Public Revenue.

The preamble to this Regulation adverted to the inadequacy of the laws regarding lands held exempted from the payment of revenue under invalid titles, (whether purporting to be Badshahi Reg. II. 1819.

* By Regulation XII. 1814, these pensions were declared not liable to seizure or sequestration for debt, or in satisfaction of a decree of court; and no assignments of such pensions were to be deemed valid if made before the time of their becoming due. Reg. XII. 1814.

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Badshahi or otherwise,) and it stated, that although the operation of the general Regulations* on that subject had been modified as to particular districts, they were still insufficient to secure the just rights of Government.

* Reg. XIX. 1793. „ XXXVII. „ (E.)

In order to obviate all misapprehension on the part of public officers or individuals, it seemed necessary to declare generally the right of Government to assess all lands, which at the period of the decennial settlement were not included within the limits of a settled estate, with the exception of lands for which a distinct settlement had been made since that period, and of lands held under a valid title of exemption from assessment. It seemed likewise fit that the Government should formally renounce all claims to additional revenue on lands which had been actually included within the limits of estates at the time when such estates were permanently settled, whether such claim might have rested on the plea of error or of fraud, or on any other ground, with the exception of course of claims to mehals expressly excluded from the operation of the settlement; the present Regulation was therefore enacted, with the view of establishing, on proper principles, one uniform course of proceeding in resuming the revenue of lands liable to assessment, so that the dues of Government might be secured without infringement of the just rights of individuals.

Reg. VIII. 1811.
„ V. 1813.
„ XI. 1817.
„ XXIII. 1817.

The Regulation began by rescinding the merely local modifications of the previous laws, and likewise those rules of the original Regulations regarding the resumption of alienated lands held under invalid titles, which prescribed suits before a court of justice as necessary to decide the right of Government previously to resumption.

Regs. XIX. and XXXVII. of 1793, and the corresponding Regulations in the Upper Provinces.

The Regulation proceeded to declare, that all lands not included within the defined limits of an estate, as settled at the decennial settlement, or subsequently, if not held under a valid title of exemption, of the nature specified in the Regulations in that behalf, should be considered liable to assessment in the same manner as other unsettled lands; and that the revenue to be assessed on all such lands, whether exceeding 100 begahs or otherwise, should belong to Government; but the rights of zemindars and other proprietors were reserved to the rent of lands *within the limits of their respective estates*, not exceeding 100 begahs, if in Bengal, Behar or Orissa, and 50 begahs, if in the province of Benares, though held on invalid tenure of exemption from assessment. The principles of this declaration were to be held applicable to tracts of land brought into cultivation in the Sunderbuns, and generally to all islands or other lands gained by alluvion or dereliction, whether from an introcession of the sea, from an alteration of the course of rivers, or from the gradual accession of soil on their banks since the period of their decennial settlement; also to lands "which, though included at the period of the permanent settlement within the limits of talooks held by individuals under special pottahs from the collector, (such as Putteetetabad and Jungleboory talooks,) in the districts of the 24 Pergunnahs and Jessore, had not been permanently assessed at the above-mentioned period."

See Reg. XXIII. 1817. Head "Special (A.)" p. 794.

The rules regarding the investigation of grants of exemption from assessment were declared applicable to mocurrery leases or other tenures limiting the demand of Government.

The Regulation then laid down the course of proceeding for trying the validity of tenures exempt from assessment, or held at an inadequate jumma. It was declared to be the duty of the collector, on the discovery of any such tenure which he might deem invalid, to report to the Board of Revenue the circumstances of the case. If the Board ordered the inquiry to proceed, the collector was to summon the party claiming the exemption to appear before him in person or by attorney, with the proofs of his title. Special rules were laid down regarding service of the process of citation, or, if it could not be served, the issue of a proclamation; if the party summoned or proclaimed neglected or refused to attend, the examination was to proceed without him. The collector had full power to summon witnesses and to call for all necessary accounts, and penalties were attached to the disobedience or the neglect of his requisitions, and to the production of false evidence; and it was further enacted, that in the event of the claimant afterwards instituting a suit to contest the decision of the revenue authorities, the courts should not admit any evidence not produced before the collector, unless it were satisfactorily shown that good reason existed for its not having been so produced in the first instance, and that such reason was assigned to the collector. Resistance to the collector's process was to be punished by fine.

The proceedings of the collector were to be conducted on the principles of a judicial inquiry, and false evidence given before him was to incur the penalties of perjury. The decision of the collector was to be recorded in a final minute in Persian; copies of which were to be given to the parties, and the whole record of his proceedings was to be forwarded to the Board of Revenue, who, after such examination and such further inquiry as they might deem necessary, were to decide upon the liability of the land to be assessed in full. The final orders of the collector and of the Board were to record the grounds on which their decisions were passed, the names of all the witnesses, and the titles of all the exhibits read. If the Board of Revenue pronounced against the assessment, their decision was to be final, except on proof exhibited to the satisfaction of a court of judicature, that fraud or collusion had been practised in the previous inquiry. If they pronounced for the assessment, the party against whom the decision had passed might appeal to a court of justice. No appeal was to be admitted by a civil court later than one year after the decision of the revenue authorities, except on special cause being shown for the delay.

If the net annual value of the land, after deducting 5 per cent. for charges of management, and $\frac{1}{11}$th of the remainder as the allowance for malikana, did not exceed 500 rupees, the

the appeal was to be tried in the zillah court;* if it was above that sum, the appeal was to lie to the provincial court. An appeal from the decisions of those courts respectively was to lie to the superior court, but was to be admitted only on special grounds, excepting in cases in which the amount at issue was above 5,000 *l.*,† in which cases a regular appeal was to lie to the Sudder Dewanny Adawlut.

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On the production of any written document purporting to be a firman of any king of Delhi, or to be a sunnud, perwannah or other grant of any vizier, or of any nawaub, rajah or other potentate or person formerly exercising authority in any part of the provinces subject to the British Government, the authorities before whom any such document should be produced were to ascertain its validity and authenticity by reference to the proper officers and records, and were not to receive it merely on the credit of the seal or other attestations impressed upon it; nor was any such document to be received in evidence at all, unless it had been duly registered, or unless good cause were shown for its non-registry.

The Regulation further provided, that all suits preferred in courts of judicature by proprietors claiming the revenue of any lands held free of assessment, and all suits preferred by individuals to establish claims from exemption from revenue were, immediately on their institution, to be referred for investigation to the collectors, who were to proceed in the inquiry by examination of parties and documents, and in the same manner as they are directed to do in the inquiries provided for in the former part of this Regulation. The court, on receiving the report of the collector, and calling for more evidence if necessary, were to decide the case.

Collectors might also receive cases of the above description themselves, and proceed to investigate them in the same manner. From their decisions in such cases, an appeal was to lie to the zillah courts within three months from the date of the decision; and from that court's decision an appeal was to be admissible by the superior court on special grounds only, except in cases appealable to the King in Council, in which an appeal was to lie of right from the decision of the provincial court to the Sudder Adawlut.

The Regulation concluded by stating, that nothing which it contained was to be considered as affecting the rights of the proprietors of estates, for which a permanent settlement had been concluded, to the full benefit of all waste lands included within ascertained boundaries of such estates respectively, at the period of the decennial settlement, and which had since been or which might be hereafter brought into cultivation. The exclusive advantages resulting from the improvement of all such lands were guaranteed to the proprietors by the conditions of that settlement. It was left to the courts of judicature to decide in all contested cases whether lands which might be assessed under the provisions of this Regulation had or had not been included at the period of the decennial settlement, within the limits of the estates for which a settlement had been concluded in perpetuity; and they were authorized to reverse the decisions of the revenue authorities in all cases in which it should appear that lands which had actually formed, at the period referred to, a component part of such an estate, had been unjustly subjected to assessment under the provisions of this Regulation. Zemindars and other proprietors of land would therefore be enabled, by an application to the courts, to obtain immediate redress in any case in which the revenue authorities should violate or encroach on the rights secured to them by the permanent settlement.

And the regulation finally declared and enacted, that all claims which might be set up by the revenue authorities on behalf of Government to additional revenue from lands which at the period of the decennial settlement had been included within the limits of estates for which a permanent settlement had been concluded, whether such claim rested on the plea of error or fraud, or on any pretext whatever, (saving of course the case of lands expressly excluded from the operation of the settlement, such as lakhiraj and thannadary lands) should be and be considered wholly illegal and invalid.

Regulation IX.—1825.

Resumption of Lakhiraj Tenures to be adjudged by the Revenue Authorities.

By this Regulation the following rules were enacted, in modification of some of the provisions of Regulation II. 1819: Reg. IX. 1825.

Whenever a collector should be visiting any portion of his district for the purposes declared in Regulation VII. 1822, it should be competent to him to extend his inquiries into the rights of persons holding lands free of assessment, or at a favourable assessment; and to require by public notification that all holders thereof should attend before him, and produce all such documents and information as he should require. He was also authorized to cause lands to be measured. If any person holding lands free of assessment, or on mocurrery tenure, should refuse to attend the collector's inquiry when duly summoned, the title to his possessions would be investigated *ex parte*; and if it should appear invalid, the lands would, with the sanction of the Board of Revenue, be resumed. Any documents intended to prove the claimant's title, which might not be produced by the possessors on the requisition of the

* It was provided by Regulation XIV. 1825, that if the decision of the civil court should reverse or alter the judgment of the revenue authorities, a regular appeal was to lie to the superior civil court, whatever might be the amount. Reg. XIV. 1825.

† The amount appealable to the King in Council.

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the revenue authorities, were not to be afterwards received in evidence by the court of judicature to whom any appeal should be preferred, unless satisfactory reasons were assigned for their non-production on the prior requisition. But lands were not to be resumed by collectors without the previous sanction of the Board of Revenue; nor were lands held by village or zemindary servants in lieu of wages to be resumed without the sanction of Government. Whenever it should appear to a collector that any tract of lands belonged to the Government, and no individual was in *bonâ fide* possession thereof, the collector might by public notification require the appearance of all persons claiming any right therein, and if, after due investigation, he should declare them to be the property of Government, and his decision should be sanctioned by the Board of Revenue, the land was to be at the disposal of Government. Such decision could only be reversed by a decree of court in a regular suit.

It was declared, that the same power of investigating claims to lakhiraj lands might be granted to any officer deputed to make local inquiries.

Regulation XIV.—1825.

Of the Authorities competent to exempt Lands from Payment of Revenue.

Reg. XIV. 1825.

The objects of this Regulation, as stated in the preamble, were to remove certain doubts which existed as to the extent of authority possessed by revenue officers, subordinate to the Governor-general in Council, in regard to the confirmation of lakhiraj tenures; and also as to the power of making lakhiraj grants, possessed by persons who had exercised that right in different quarters before the acquisition of the country by the British Government. A further object of the Regulation was to amend the law in regard to the appeals which might be preferred from the decisions of the zillah courts in suits brought to set aside the decisions of the Revenue Board under the Regulation II. 1819.

It was declared, that no authority existed competent to exempt lands from revenue assessment, except that of the Government, or of officers or boards specially appointed by them, to declare such exemptions, or the courts of judicature deciding on such questions in conformity with the principles of the Judicial Regulations enacted by the Government.

The periods of the introduction of the British authority into different territories now subject to their rule were specified in this Regulation, and it was declared that uninterrupted possession at and subsequently to those periods should be deemed to confer a valid title, without evidence of any formal grant or recognition thereof, unless the tenure were derivative under a jaghirdar or other person, in which case, if the superior tenure should be deemed invalid, the derivative tenure would follow the same condition: the general principle being, that the Government were entitled to share in the produce of every begah of land, the proof of possession or other title lying on the claimant.

The Regulation enumerated the several potentates who, in the exercise of supreme authority, were competent to make grants exempting from payment of revenue, and declared that their authority was in all cases to be admitted. In regard to grants by officers alleged to have been duly authorized by the before-mentioned potentates, the decisions of the courts, if in favour of the grant, were to be referred for the sanction of the Government. The validity of grants by those potentates was to depend on the following conditions, namely, that they had been made while such potentates held the supreme power, and that the lands granted were situated in a territory subject to their respective jurisdictions; that the grantee had obtained actual possession, and that the grant had not been subsequently resumed. The validity of grants not made or confirmed by the supreme power was to depend on their having been made or confirmed by some authority which the Governor-general in Council should have declared competent to make or confirm the same, and that the grantee had obtained actual possession.

In cases turning on the right of any officer to resume lands antecedently to the acquisition of the territory to the British Government, the question of authority was to be referred for the decision of Government.

Lastly, it was declared, that decisions passed by the courts of judicature before the promulgation of this Regulation, without due regard to the restricted powers of the officers of the revenue, as defined in this Regulation, and in opposition to the principles it contained, were to be open to revision in the courts which had made such decisions.

Regulation III.—1828.

Appointment of Special Commissioners to decide Appeals regarding Resumption of Lakhiraj Lands.

Reg. III. 1828.

The object of this Regulation was to enable the Government to appoint commissioners to exercise the appellate jurisdiction which had been before vested in the judicial courts in suits instituted to set aside the decision of the revenue authorities as to the resumption of lands held free of rent, or at an adequate rent under invalid tenures. It had appeared that partly from the number of cases in question, partly from the practice of the courts in treating the appeals made to them as original suits, and partly from other causes, heavy arrears of such cases had accumulated in several of the courts and boards of revenue.

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The Regulation accordingly empowered the Governor-general in Council to appoint one or more special commissioners, as should be judged expedient, for the determination of all cases investigated by the local revenue authorities, under the rules regarding the resumption of exempted lands in Regulation II. of 1819 and IX. of 1825.* The same commissioners were also to determine all suits brought to contest the demand of the revenue officers as being in excess of what the party was bound to pay. The special jurisdiction and powers of the commissioners were to be determined by the Governor-general in Council, and upon the appointment of such commissioners, the powers of the courts in regard to all matters cognizable by the said commissioners were to cease, and all cases pending before them of that nature were to be transferred to the commissioners. The appeals which were to lie from the decisions of the local revenue authorities to the superior boards under the Regulations before cited were thenceforward to be made to the special commissioners.

It was to be competent to the Government to vest in the special commissioners all the powers of the Board of Revenue.

Whenever a collector making the inquiries which he was authorized to institute by Regulation II. of 1819, and IX. of 1825, should judge lands to be liable to assessment, the party against whom the decision was passed might appeal to the special commissioners within two months. The collector might, notwithstanding the appeal, carry his decision for assessment into execution, reporting his proceedings to the Board, or to the commissioner, if exercising the power of the Board, who might order the suspension of the attachment. In cases in which the collector should decide against assessment, he was to report his decision to the Board, who might refer the case to the commissioner within one year after the passing of the collector's decree. In all cases appealed or referred to the commissioner, his decision was to be final, except in cases of such amount as would, if decided by the Sudder Adawlut, be appealable to the King in Council. In all such cases the appeal to the King was to lie under the same rules regarding its institution, &c. as in appeals from the Sudder Dewanny Adawlut. Provision was made, if the decision of a single commissioner should be adverse to any decision passed in the same case by other authorities, that other commissioners should be appointed, so that the final award might be made by the concurrent voices of at least two special commissioners.

It was to be competent to that Government to prescribe any special rules for the guidance of the commissioners, whose powers and proceedings in general were to assimilate to those of the zillah judges; the decisions of the special commissioners were, when necessary, to be carried into execution by the zillah courts. Special commissioners were to take an oath of office. In cases where the jurisdiction of the courts was not barred by the provisions of this Regulation, they were to proceed to hear and determine as before, and the courts were to appropriate the first court day in each week to the decision of such appeals. It was directed that all persons succeeding to lakhiraj or mocurrery tenures, should immediately report such succession to the collectors; if they failed to do so for six months, the collector was to attach the land, which was only to be restored on proof of the goodness of the title, and on payment of a fine equal to one year's rent. All exempted lands not duly registered were to be liable to immediate resumption; and all tenures, not hereditary, were to be resumed on the death of the holder. The remainder of the Regulation referred to grants to be made of lands in the Sunderbuns, which were declared to be the property of the Government.

* It was provided by Regulation IV. 1829, that no special commissioner should take cognizance of an appeal against an act done by himself as collector, judge or otherwise; the Governor-general in Council was in such cases to make provision for hearing the case. Reg. IV. 1829.

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PART I.—Land Revenue—GENERAL—*continued.*

(F.)—POWERS and DUTIES of the BOARDS of REVENUE as COURTS of WARDS.

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(F.)

POWERS and DUTIES of the BOARDS of REVENUE as COURTS of WARDS.

REGULATION X.—1793.

Constitution and Authority of the Courts of Wards.

Reg. X. 1793.

See Reg. III. 1796.

IT was declared in Regulation VIII. 1793, that proprietors of entire estates, paying revenue immediately to Government, who were females or minors, or who laboured under idiocy, or other natural defects or infirmities, should be deemed incapable of having any concern in the management of their estates, which should be transferred to persons appointed to the trust by Government. The present Regulation re-enacted the Rules passed on the 20th August 1790 and 15th July 1791, which constituted the Board of Revenue to be a Court of Wards, with power to superintend the education of minors, to direct the conduct of the managers, and to inspect the accounts of the estates of disqualified proprietors. The application of the Rules was limited to proprietors of entire estates, because, where there should be two or more joint co-proprietors, a joint manager might act for both or all. The causes of disqualification were declared to be minority, idiocy, lunacy, or such natural defects or infirmities as unfit men for business, contumacy or notorious profligacy, and sex, except where a female should be deemed competent to transact the business of her estates. The following were the principal rules to be observed by the Court of Wards in the execution of their powers and duties.

Females.

See Reg. L. 1793.

In taking charge of estates belonging solely to females, the Court of Wards were to report thereon to the Government, who reserved to themselves the power of declaring the competency of any female proprietor to the management of her own estate.

Minors.

In taking charge of estates of minors, if the proprietor should declare himself to be of age, such declaration being made by him or on his behalf to the civil court of the district, was to be forwarded to the Sudder Dewanny Adawlut, who would direct the local court to examine and certify the age of the applicant; the decision of the Sudder Dewanny Adawlut was to be final, and the Government would direct the restoration of the estate, or its continuance under the Court of Wards, according to such decision.

Lunatics, &c.

In cases of idiocy, lunacy, &c. the collector was to communicate the circumstances through the government vakeel to the zillah court, who were to submit the case to the Sudder Dewanny Adawlut. That court would direct due inquiry to be made by the civil courts of the district, who were also to have before them the party reported to be disqualified. On the report of the court, the Sudder Dewanny Adawlut were to certify to the Governor-general in Council their opinion of the incompetency or otherwise of the proprietor, and the Government would issue final orders in conformity with that report.

Contumacious and profligate Persons.

See Reg. VII. 1796.

In the same way as in the preceding cases, the grounds of disqualification were to be laid before the Sudder Dewanny Adawlut by the zillah court, and the decision of the Sudder Dewanny Adawlut was to be notified to Government, who would issue orders in conformity with the Sudder Dewanny Adawlut's decision.

An annual examination was to be made by the local civil court into the condition of lunatics; and whenever the court should be of opinion that the disqualification was fully removed, they were to report accordingly to the Sudder Dewanny Adawlut, who would state their opinion thereon to the Government, who would issue orders in conformity with such opinion.

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Any one disqualified by reason of minority, lunacy or contumacy, who should consider his disqualification to have ceased, might bring the question for the final decision of the Sudder Dewanny Adawlut, by representation in the first instance to the local civil court, in the mode above prescribed.

The duties of manager and guardian were declared distinct: the manager was to have the care of the estates, real and personal; the guardian the care of the person, maintenance and education.

Managers.

The manager or serberakar was to be a competent and responsible person, and was generally to be one nearly connected with the family; preference was to be given to legal heirs or other near relations*; female proprietors might recommend managers for their estates, and such recommendations were to receive attention. Managers were to have compensation for the discharge of their office, and were declared liable to be fined by the Court of Wards for malversation. Managers might appoint their own subordinate officers, subject to the approbation of the Court of Wards.

Out of the receipts from the estate, the manager was to pay the assessed revenue to Government, and an allowance equal to 10 per cent. on the revenue to the proprietor. If the collections fell short, a proportionate diminution was to be made of the revenue, and of the proprietor's allowance, and the deficiencies to be subsequently made up out of the surplus collections of future periods. A monthly account current of receipts and disbursements was to be delivered to the collector, who was to audit it, and report on it to the Board of Revenue; the manager was also to render an annual account current upon oath, and accompanied by his vouchers. After the prescribed payments had been made, the surplus receipts were to be disposed of in the mode most beneficial to the estate, or in the purchase of government securities.

Guardians.

The duties of guardians were declared to consist in the care of the person of the proprietor, and the education of such as were minors. The guardianship was in no instance to be intrusted to the legal heir, or other person interested in out-living the ward. Females were to have guardians of their own sex. The guardian was to propose the establishment of servants to act under him, subject to the approbation of the Court of Wards. He was to render accounts in the same manner as the manager. The education of boys was to begin at five years of age, after which the superintendence of female relations was to cease. The minority of Hindoos and Mahomedans was to terminate at the expiration of the 15th year. In particular cases the trusts of guardian and manager might be united in the same person, provided he were one to whom inheritance could not possibly descend.

See Reg. XXVI. 1793.

Disqualified proprietors might sue the collectors, or their guardians or managers, before the Court of Wards for fraud, by any person willing to undertake their cause, provided that person should previously give security for the payment of all costs and damages in case of being non-suited; in return for which the person so suing was to receive any fine and costs that might be adjudged against the defendant. The judgments of the Court of Wards in such cases were to be enforced by the civil court of the district, from whom an appeal was to lie to the Sudder Dewanny Adawlut.

Disqualified landholders were not permitted to adopt, without the sanction of the Court of Wards.†

Regulation XXVI.—1793.

Extending the Period of Minority to the end of the Eighteenth Year.

Reg. XXVI. 1793.

The preamble to this Regulation recited that the termination of minority had been fixed by Government (Regulation X. 1793) at the expiration of the fifteenth year, on consideration that the Mahomedan and Hindoo laws, though they prescribe no specific age, indirectly pointed out the fifteenth year as the time when persons were to be considered competent to the management of their own affairs; that experience had shown the evils resulting from the possession of estates being given to persons at so early an age. With a view, therefore, to the future welfare of minor proprietors, as well as to the protection of the country from the frequent shocks to which it would be necessarily liable from the want of education and the early corruption of morals of young proprietors, the Regulation enacted that the minority of Mahomedan and Hindoo proprietors of estates should be fixed to the end of the eighteenth year.

Regulation L.—1793.

Provision for the Care of small Estates of disqualified Proprietors, and for permitting Women to manage their own Estates when duly qualified.

Reg. L. 1793.

This Regulation was enacted to provide against certain inconveniences resulting from the application of the provisions of the Court of Wards' Regulation to estates of too inconsiderable extent or value to bear the expense of the prescribed process, and also to authorize the superintendence

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* By Section 26, Regulation VII. 1799, it was declared that this class of persons had been found in general disregardful of the public interests, which, in consequence of estates of disqualified landholders being not liable to sale for arrear of revenue, became seriously injured by their neglect; it was therefore enacted, that the managers were to be thenceforward chosen by the collectors, and approved by the Board of Revenue, without regard to the connexion of the disqualified proprietor. Reg. VII. 1799.

† By Regulation I. of 1800, provision was made for the appointment of guardians to the persons of minor orphan proprietors of shares in joint undivided estates not subject to the jurisdiction of the Court of Wards, when the parents should not have left any guardians to their children by will. Reg. I. 1800.

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superintendence of females over their own estates whenever they should be found competent to the charge by their education and habits of business.

The Regulation accordingly directed that if the produce of an estate of a disqualified proprietor should be insufficient to bear the expense of the proceedings directed in Regulation X. 1793, the Court of Wards might take such measures as should seem best suited to the exigencies of the case, to provide for the security of the revenue and the maintenance of the proprietor.

The Court of Wards were also empowered to invest females with the management of their own estates, when fully satisfied of their competence to their charge, in which case such females were to execute the same engagements as other proprietors.

Regulation III.—1796.

Declaring the proper Objects of the Jurisdiction of the Courts of Wards.

Reg. III. 1796.

The preamble stated that the purpose and intention of the Court of Wards' Regulation (X. 1793) had been perverted by persons who, having diminished the value of their estates by mismanagement or other causes, and rendered them inadequate to satisfy the public demands, had, by a real or fictitious transfer of them to a minor or other disqualified person, brought the lands under the management of the Court of Wards, with the view of exempting them from sale.

The present Regulation therefore declared, that the ordinary jurisdiction of the Court of Wards was meant to extend only to such estates as should devolve to disqualified landholders in the regular course of inheritance. The right, however, was reserved to the Governor-general in Council of placing under the management of the Court of Wards estates which had not so devolved by inheritance, whenever good reasons appeared for so directing.

Regulation VII.—1796.

Profligacy and Contumacy declared not to be grounds for the interference of the Courts of Wards

Reg. VII. 1796.

The preamble declared, that the rule in the Court of Wards' Regulation (X. 1793,) which ranked among the persons whose estates were to be placed under the management of that court such as the Governor-general in Council might deem disqualified on account of contumacy or notorious profligacy of character, had been found to be liable to ill consequences, which far overbalanced the advantages intended by it. The very provisions, made with a view to guard against the abuse of this power, namely, that before a landholder should be declared incompetent on the ground of profligacy, an examination should take place before the civil court, when he might adduce evidence to relieve himself from the imputation, and that the proceedings upon the case should be submitted for the decision of the Sudder Dewanny Adawlut, had been found objectionable in practice. They led to the exposure of private conduct in a public court of justice, which was extremely offensive to those who were the objects of it, and might in some instances, particularly to Hindoos, prove highly injurious, than which nothing could be more foreign from the wishes and intentions of the Government. On consideration of these circumstances, the Regulation rescinded so much of the former enactments, as made contumacy or notorious profligacy of character a ground for the interference of the Court of Wards.

Regulation VI.—1822.

Appointment of Managers by the Courts of Wards.

Reg. VI. 1822.

One object of this Regulation was to extend the operation of the Court of Wards' Regulation to Benares, which had been omitted to be done; its further object was to modify the rules for the administration of the court in certain particulars. The original rules for the management of the estates of minors, and other disqualified persons over which the court of wards had jurisdiction, provided that the manager should be selected from amongst the relations, connexions or principal servants of the minors' family, and that it should be his duty to collect the rents and otherwise manage the estate under the general authority of the Court of Wards. This system of management was early abandoned in the case of the less valuable estates, where the expense incident to the system was found to consume the profits, and the Court of Wards were authorized in such cases to adopt at their discretion any mode of management they might judge fit. Subsequently the managers had been declared to be merely ministerial officers of the collector, by whom they were directed to be chosen, under the instructions of the Board of Revenue, without any regard to their connexion with the proprietor. The revenue authorities were thus virtually vested with full powers of managing the estates of wards as might appear best; and the Court of Wards finding the charges of mofussil management by the said officers to be generally inordinate, obtained authority and instructions of Government to substitute the system of farming in all ordinary cases. This system, which had been adopted and pursued with a view to the interests of the minors, had prevailed for a period of eighteen years. Nevertheless, the terms in which the discretion of dispensing with a manager was vested in the courts by legislative enactments, had led to doubts of the legality of the practice of farming as applied to extensive or profitable estates.

The Regulation accordingly declared the Courts of Wards competent to farm estates, or to adopt any other form of management which might seem to them most expedient, for terms not exceeding ten years; it likewise vested them with a discretion of not interfering with the estates of disqualified proprietors, where such interference might appear unnecessary or inexpedient.

PART THE SECOND.

LAND REVENUE—SPECIAL.

(A.)—SPECIAL REVENUE REGULATIONS for *Benares*,—and certain DISTRICTS in the LOWER PROVINCES.

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(A.)

SPECIAL REVENUE REGULATIONS for BENARES.

REGULATION I.—1795.

Declaring the Settlement of the Revenue permanent.

THE preamble to this Regulation recited, that the Governor-general in Council had determined, with the concurrence of the Rajah of Benares, to introduce into that province, as far as local circumstances would admit, the same system of interior administration as had been established in the provinces of Bengal, Behar and Orissa. The object of the present Regulation was to declare as an essential part of that system the limitation for ever of the annual revenue upon the lands, on the principle laid down for the Lower provinces in the preamble to Regulation II. 1793. It was stated that the administration of the revenues of this province, which from 1781, the date of the accession of Rajah Mahipnarain, had been subject in a certain degree to the control of the resident of the British Government, had been, since 1787, more entirely under the superintendence of that officer; from that time it had been an object of the British Government to form a decennial settlement of the revenue, which might eventually be declared permanent. In 1794 the rajah relinquished the revenue administration of the province, which he had conducted as zemindar, to the British Government; who, in the exercise of the authority which in consequence devolved to them, enacted by the present Regulation, that the decennial settlement, which had received their approbation and sanction, should be permanent, and that it should be so notified by proclamation, with the following reservations and restrictions.—All persons holding pottahs as zemindars or as farmers, were to be bound to conform to all such Regulations as should be duly published and promulgated by the British Government. The succession to zemindaries was to take place according to the established laws, rules and customs of the country. On the death of any farmer holding a pottah for lands, or of his pottah otherwise becoming void, any zemindar who had been dispossessed of those lands before the cession of the province to the British Government in 1775, might recover possession on agreeing to pay a fixed assessment in conformity to the Regulations. Zemindars who had been in possession subsequently to 1775, but whose lands had been let to farm at the conclusion of the decennial settlement, in consequence of their not having agreed to the assessment proposed, might recover possession on proving their right in the civil court, and on paying such compensation as the court might decree to the farmer. Reg. I. 1795.

It was provided, that no Regulation of the British Government should be considered as extending to Benares, unless so specially declared at its promulgation, or by subsequent extension.

Appendix, No. 6.

Regulation II.—1795.

Recording the successive Systems of Revenue Administration before the permanent Settlement.

(3.) Regulations for the Administration of Revenue Affairs.
Reg. II. 1795.
(Special A.)

This Regulation enacted and promulgated in the prescribed form, and with certain modifications and amendments, the rules which had from time to time been passed; and recorded the successive measures which had been adopted regarding the settlement and collection of the revenue from the beginning of the revenue year 1195, (which began in September 1787,) under the superintendence of the British resident. The preamble stated, that on the accession of Rajah Mahipnarrain, in 1781, the collection of the revenues on behalf of the rajah was made by certain native collectors or farmers of the revenue called Amils. These persons received the rents from the village zemindars, who were described as landholders, generally paying the revenues of their lands to Government, jointly with one or more parceners. In some cases certain of the parceners had had their shares separated from the rest, but the major part held their shares in common; the names of the head men of the co-parcenery being usually inserted in the engagements for the public revenue.

At the conclusion of the first settlement which had been made for one year, beginning in September 1787, new agreements were taken in the name of the rajah from the amils, who stipulated to pay the revenue for which they had engaged, inclusive of certain cesses levied from the landholders, but exclusive of lands exempted from the payment of revenue, pensions and charitable and other allowances charged on the public revenue; and the amils further engaged, that if they made undue collections beyond the funds or assets assigned to them, they should be liable to pay a fine to Government, equal to three times the amount. In June 1788, several special rules were passed to prevent abuses in the collection of the revenue, by prescribing the mode of measuring the land, of estimating the value of crops, and of commuting the share of the Government proportion of the crop into money, prohibiting the imposition of new cesses, and abolishing several of the old ones. These rules were approved by the Government as preparatory to the establishment of a more regular system of assessing the collection of the revenue; and with a view to the introduction of such a system, the resident was authorized to take upon himself the entire formation of the settlement for Fusly 1196 (A.D. 1788-9), which was done on full examination of the reports of the canoongoes, and the estimates of actual produce, after making deductions and remissions. New forms of engagements were taken from the amils, who bound themselves to abide by their engagements, and not to demand from the cultivators any unauthorized payments or cesses; on these principles, the general settlement of the zemindary was made on leases for one year in about one-third of the zemindary, and five years on the other two-thirds of the zemindary; the amils being directed to let the lands to the hereditary landholders, and not to mere farmers, unless the zemindars refused to engage. This settlement was approved by the Government, who directed the resident to endeavour to introduce into Benares the system proposed for the permanent settlement of Behar, which had for its object the ascertaining and limiting the demand of Government, and securing to its subjects in perpetuity the quiet enjoyment of the fruits of their industry. The resident accordingly instructed the amils and canoongoes to proceed in the settlement, subject to his revision, on estimate of the revenue funds, after the sowing of the second crop. On communication of these preparatory measures by the resident, the Government resolved that a settlement should be made for ten years on the principle of that effected in Behar. Accordingly the resident and his assistants proceeded on different circuits through the four circars of the zemindary of Benares, to revise the assessment and correct errors, whether as to the persons engaged with, or the allotment of the jumma. In this manner and with the assistance of the accounts of the preceding ten years, and such other local information as could be obtained, the revenue settlement, which was to be eventually rendered permanent, was framed under the superintendence of the resident, and the engagements entered into by the village zemindars and farmers on the formation of the permanent settlement bound them to the observance of the following articles:

1st,—That in case of failing in the punctual payment of the revenue, their property, real and personal, should be sold to make good the deficiency.

2d,—That they would not attach without the sanction of Government any lands which had been held by individuals exempt from the payment of revenue, up to the end of the revenue year 1195, A.D. 1787-8; and that they would not make any grants exempting lands from revenue, on pain of such lands being confiscated to Government.

3d and 4th,—That they would collect from the ryots according to the previous Regulations, and grant receipts for the payments.

5th,—That they would support the canoongoes in the execution of their functions.

6th,—That they would not levy nor receive any of the articles of abolished sayer, house-tax or abkarry.

7th, 8th and 9th,—That they would be responsible subordinately to the amil for the maintenance of the peace, and the apprehension of robbers, murderers, &c. and make good the property stolen within their limits, and obey all orders of Government.

Powers of the Amils.

On the conclusion of the permanent settlement, new engagements were entered into with the amils, by which it was declared that they were officers charged with the duties of "hakim," or magistrate, and "tehseeldar," or collector. In the latter capacity they were

to

to collect the sums payable as revenue by the village zemindars, as ascertained by their pottahs. They were not to levy cesses on their own account, nor to collect tolls or duties, under pain of fine. They were also to be responsible to the Government in the first instance for the maintenance of peace, and for thefts and robberies; with a right to have recourse for their own indemnification to the landholder and farmer within whose limits the robbery might have occurred.

In their capacity of magistrates they were to apprehend criminals and disturbers of the peace, to decide revenue disputes between zemindars, farmers and ryots; also to refer, with consent of parties, disputes of a civil nature to arbitration. Parties not consenting to arbitration were to be left to sue in the civil court established at Benares. The amils were required to yield prompt obedience to all orders and decrees issued by the civil courts, or by the rajah or by the resident.

It appearing that the amils had been in the habit of obtaining conveyances to themselves of the lands of revenue defaulters, an order had been issued in September 1794, prohibiting all such transfers; and it was now further declared that all persons who had so disposed of their lands, or the heirs or partners of such persons, might sue for the recovery of their lands at any time from the date of such conveyances within five years, and were to be considered entitled to have the conveyances annulled on repaying the purchase-money with simple interest.

Several rules were passed to protect the rights of different classes of persons, and to meet the peculiar circumstances of certain districts or divisions. It was explained in reference to disputed claims between sharers in the same village, that the new pottahs were meant only to fix the rental, and in nowise to constitute a bar to the recovery of any proprietary right in land for which suits might be instituted in the courts of justice, in the same manner as if no such pottahs had been granted.

It was declared, that in consideration of the habits prevalent among the newly restored body of zemindars, it seemed advisable to continue them for a period under the superintendency of the amils, both in respect to the police and to the payment of revenue; but it was stated that any person holding a Government pottah, who might prove his amil to have been guilty of oppression, should thereupon have the option of paying his revenue directly to the public treasurer, without the intermediate agency of the amil in any way.

Regulation IV.—1795.

Resumption of the Sayer by Government.

Reg. IV. 1795.

The Regulation enacted, in the prescribed form of a Regulation, the rules before published, prohibiting the zemindars and farmers from collecting duties and customs; and it was made imperative on the darogahs to transmit immediate information to the collectors of the establishment of any unauthorized chokies, or the exaction of any tolls, or other duties on traffic or bazars.

Regulation VI.—1795.

Recovery of Arrears of Revenue.—Powers of Tehseeldars.

Reg. VI. 1795.

This Regulation adopted the rules for the recovery of arrears of revenue to the peculiar circumstances of the provinces of Benares. The amils, to whom the collection of the revenue of a large portion of the province was at that time intrusted, were in this Regulation styled "tehseeldars," and the canoongoes were called "serrishtahdars." The tehseeldars were authorized to place watchmen over the crops of those payers of revenue who had not given security for the regular payment of their rents. When instalments or periodical payments became due and were not promptly paid, process was to be issued, and a payment of a daily allowance for the officer serving it was to be continued until the arrear should be discharged, operating as a fine on the defaulter. It was declared, that in consideration of the liberal rate of commission continued to the amils or tehseeldars, they were to be responsible to Government for the lands within their tehseeldaries the revenue of which was not paid immediately to the collector, as well as for the annually ascertained revenue funds of those lands that might remain amauny; and they were declared liable to make good to Government from their own property whatever deficiencies in the collection of the said ascertained funds might be proved to have arisen, either from their wilful neglect or inattention, or from direct embezzlement; to which purport engagements were to be taken from them by the collector. The tehseeldars were also declared liable to be removed from their offices by the collector, with the sanction of the Board of Revenue, and to be prosecuted on the ground of their said engagements, either during the course or at the end of the year. In the case of village zemindars paying direct to the collector's treasury, it was left to discretion whether the share of a defaulting partner should not be made over to the other parties on their making good the arrear. On the failure of a farmer, the zemindars who had been formerly superseded might be re-admitted to the possession and management of their lands on agreeing to the revenue assessed.

Regulation XXVII.—1795.

Rights of Proprietors in Benares.

Reg. XXVII. 1795.

This Regulation declared the reservations made by Government and the rights of the proprietors, extending in those respects certain rules of Regulations I. and VIII. of 1793. It concluded with declaring that the term "proprietor," in regard to Benares, must be held to designate the person with whom a contract has been entered into with the Government for

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3.) Regulations for the Administration of Revenue Affairs. (Special A.)

payment directly to the treasury of the revenue, for the lands mentioned in their engagements, whether such persons possessed the entire proprietary right in such lands, or were only the principal amongst other shareholders, and that such contract did not affect or prejudice the rights distinct or common of any other sharers where such might exist, and that all such rights in cases of dispute were to be determined by the courts of justice, according to the laws, customs and usages of the district.

Regulation XXXIV.—1795.

Money Pensions.

Reg. XXXIV. 1795.

This enactment regulated the payment of pensions receivable from the Government and from the provincial territories in Benares. The pensions in question were of seven classes:—

1st. Such as had been originally granted, either wholly or in part, as indemnifications for lands reserved under the native government. This class was declared not resumable on the death of the pensioner, but was to be considered as property, heritable and liable to be sued for in the same manner as other property.

2d. This class consisted of allowances granted, in 1781, by the Governor-general to certain persons who represented themselves to have been landholders in the zemindary of Benares; these pensions were not to be continued to the heirs without the special sanction of Government.

3d and 4th. These classes included special pensions, formerly paid by the amils in their several pergunnahs, or partly by Government, and partly from the district treasuries, and all dependent upon certain conditions. None of these were to be continued beyond the life of the pensioner without the special orders of Government, on the report of the Board of Revenue.

5th. This class consisted of payments for dresses of honour to the kazee and mufti of Benares, at two annual Mahomedan festivals.

6th. This class consisted of pensions granted to persons helpless from indigence or age, in lieu of pensions formerly received from the sayer. These were declared to be only life pensions.

7th. This class consisted of charitable allowances, defrayable from the religious offerings made at a certain temple at Mirzapore. This distribution was to be continued as formerly, but under the orders of the Board of Revenue and the Governor-general in Council. Any persons interested in this fund who should deem themselves aggrieved by the orders of the collector, might submit a representation to the judge of the civil court, who would forward the same to the Governor-general in Council.

Regulation LI.—1795.

Opposition to the Issue of Pottahs from Proprietors to Ryots.

Reg. LI 1795.

The preamble to this Regulation recited, that in order to prevent undue demands being made upon the cultivators, by the persons entitled to levy from them the Government proportion of the produce, ameens had been deputed by the resident of Benares in February 1795, to cause pottahs to be granted to the ryots, agreeably to certain forms by which their payments were to be regulated. The instructions issued in this respect were detailed in the Regulation, and the form of the pottah with which the ameens had been furnished was given at length. The Regulation proceeded to state, that the progress of the ameens was viewed with a considerable degree of jealousy by the zemindars and farmers; and a report having been made to the Government of the difficulties encountered by the ameens, the Governor in Council observed, that similar difficulties had been experienced in enforcing the Regulation regarding pottahs in the other three provinces. That in many places the ryots had omitted to take out pottahs, or objected to receive those tendered to them, agreeably to the Regulation; and that owing to the variation in the rates in different districts, and to other local circumstances, disputes had been occasioned, where both the proprietor and the cultivator of the lands had been before satisfied with the rates of assessment mutually agreed upon between them. That the rules regarding pottahs, contained in Regulation IV. 1794, for Bengal, Behar and Orissa, had in consequence been passed, under which, if any dispute arose between a proprietor and a ryot, regarding the rates of pottahs, the latter, by application to a court of judicature, could always obtain a pottah at the ancient and established rates of the district; and that where no such dispute existed, the interference of Government was of course unnecessary. Under these considerations the ameens had been recalled, and it was resolved that rules similar to those of Regulation IV. 1794, should be adopted in Benares, it being presumed that the operation of them would gradually lead to the fixing of the rates for land in different places, where any dispute might subsist, without incurring the inconvenience likely to result from attempting to effect this object at once by the deputation of ameens. The remainder of the Regulation accordingly enacted provisions similar in principle to those of Regulation IV. 1794.

BENARES and Part of BAHAR, viz. Zillahs *Bahar, Sahabad, Sarun* and *Tirhoot*.

(3.) Regulations for the Administration of Revenue Affairs. (Special A.)

REGULATION I. 1816.—I. and XXIV. 1817.—I. 1819.

Appointment and Jurisdiction of a Commission.

BY this Regulation a local commissioner was appointed for the superintendence of the revenue of the province of Benares, and a part of the province of Bahar, who was to perform the duties and exercise the power and authority of the Board of Revenue and Board of Commissioners in those districts respectively. Reg. I. 1816. (Rescinded by Reg. I. 1829.) Viz. Zillahs Bahar, Shahabad, Sarun, Tirhoot.

The authority of the commissioner was extended over the districts of Ramgur, Boglepoor and Pooneah, by Regulation I. 1817. Reg. I. 1817. (Rescinded by Reg. III. 1822.)

By Regulation XXIV. 1817, two members were appointed to perform the duties of this commission, and its authority was extended to the districts of Dinagepoor and Rungpoor, in the province of Bengal. Single members of the commission were declared to have the same powers as single members of the Board of Revenue were vested with by Regulation XIII. 1811. Reg. XXIV. 1817.

By Regulation I. 1819, Dinagepoor and Rungpoor were again placed under the Board of Revenue. Reg. I. 1819.

REGULATION VII.—1828.

Jaghire Lands of Benares placed under a Revenue Superintendent.

THE preamble to this Regulation referred to an arrangement which had been entered into with the Rajah, by which the administration of justice, so far as related to matters connected with revenue, was intrusted to the rajah within his own zemindary, to be conducted, however, in concert with and under the advice of the collector, and with an appeal direct to the Governor-general in Council. This arrangement, it was stated, was obviously intended to secure to the population the same principles of administration and the same recognition of rights, to which the Government had engaged to adhere in its dealings with the rest of its subjects throughout the province. Inconveniences, however, having been experienced from the absence of specific rules for the guidance of the rajah in the exercise of the privileges thus conferred upon him, and the system having in other respects failed to accomplish the objects intended by it, the Regulation proceeded to enact as follows: Reg. VII. 1828.

A superintendent of the jaghire mehals (that is, the districts settled as a personal jaghire on the rajah) was to be appointed by the Governor-general in Council. The judicial administration was to continue with the rajah, but the reservation of this privilege to him was not to divest the population of any of their rights and interests in the land which had immemorially belonged to them, and were enjoyed by similar classes throughout the rest of the province. The settlement of the land revenue was to be made through the rajah, in conformity with the general rules in force in the province of Benares; but it was directed that in making the settlement, preference was to be given by him to such persons as, under the Regulations of 1795, would have been considered zemindars; those persons were to be recorded under the designation of raees, and their tenure was to be considered heritable and transferrible. Where there were no raees, the rajah might at his option either let the lands in farm or conclude a ryotwar settlement for them. The assessment on the land was not to be raised above what the usage of the province authorized. The admission of particular parties to engagements for the revenue was declared to convey no rights over co-sharers or under-tenants which were not previously possessed by them, except in so far as might be specially authorized by the revenue Regulations. It was declared to be the duty of the rajah when making or revising revenue settlements, to ascertain and record all material points connected with the rights, interests and privileges of the various classes of his tenantry; and to cause all lakhiraj tenures to be carefully registered, as well as the amount and nature of the allowances assigned to putwarrees and village watchmen. When individuals of a village coparcenary might be selected to enter into the revenue engagement with the Government on behalf of the whole coparcenary, the non-engaging parceners were only to be held answerable for the portion of rent or revenue demandable from them respectively; the rights of the several sharers, whether distinct or separate, were not to be prejudiced by such engagements, and disputes between them were to be determined according to their respective rights, conformably to the laws and customs of the province. All transfers of land by proprietors, if conformable to the law of the parties, were declared valid, provided they were duly notified to the rajah, who, in regard to such notification and the recognition thereof, was to be governed by the same rules as collectors in other parts of the province, subject to the orders of the superintendent, whose authority in this respect was declared similar to that of the Board of Revenue over the collector. The superintendent was also to exercise a like control in the revision of the revenue settlements.

In the collection of the revenue, the rajah was declared to possess the powers of a zemindar over his under-tenants, and those of collector as defined in the Regulations. Sales of land for arrear of revenue, or in satisfaction of judicial decrees, were to be held in presence of the rajah or his deputy, and the course of proceeding was to conform to the rules of Regulation XI. 1822. The powers of the Board of Revenue, in regard to sales, were declared to be vested in the superintendent, from whose orders thereupon no appeal was to lie, except to the Governor-general in Council. Complaints against the rajah or his officers

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(3.) Regulations for the Administration of Revenue Affairs.

(Special A.)

for the breach of these rules, or for unnecessary severity in the execution of them, were to be preferred to the superintendent, who was to cause justice to be rendered to the parties; but if the offence was such as would require a criminal prosecution, it was to be referred to the magistrate, to proceed thereon under the ordinary Regulations. Torture and every description of corporal punishment to enforce payment of revenue were strictly forbidden.

Regulation IX.—1816.

Appointment of a Commissioner in the Sunderbuns.

Reg. IX. 1816.

By this Regulation provision was made for the appointment of a revenue officer to be vested generally with the powers and duties of a collector, who should be denominated the "Commissioner of the Sunderbuns."* His jurisdiction was to extend over such portions of the 24 pergunnahs and adjacent districts as the Governor-general in Council should fix.

The commissioner was to be under the control of the Board of Revenue.

Regulation XXIII.—1817.

Rights in Land formed by Alluvion, and dereliction of Waters.

Reg. XXIII. 1817. (Rescinded by Reg. II. 1819. *See* Head E. p. 782.)

The preamble to this Regulation stated, that there was reason to believe that extensive tracts of land within the Sunderbuns, which, at the period of the formation of the permanent settlement, were entirely waste, and were not included within the limits of any settled estate, had been brought into cultivation, and were occupied without payment of revenue, and that large tracts of alluvial lands formed since that period were similarly circumstanced. The right of Government was asserted to share in the produce of all such lands; but it was stated that the holders were deemed likely to avail themselves of the rule which prohibited the resumption of lands not paying revenue otherwise than under a decree of the courts of judicature. The principle of those rules not being intended to apply to cases such as those here referred to, the present Regulation was enacted to explain the principle upon which the revenue authorities were to proceed in assessing such lands. It accordingly declared that the rules for trying by regular process, before the judicial courts, the validity of titles to hold lands free of assessment, should not be deemed applicable to lands in the Sunderbuns; and in lieu thereof it applied to them the rules enacted for Cuttack by Regulation V. 1813,† which vested the collectors with authority, under the final orders of the Board of Revenue, to examine and pass judgment upon such titles. The Regulation further declared, that all lands which at the time of the decennial settlement were not included in the limits of any pergunnah, or other division of estates for which a settlement had been made with the proprietor, and which were not held under a valid and legal title of exemption, should be held liable to assessment, and that the revenue which might be assessed upon all such lands, whether exceeding 100 begahs or otherwise, appertained of right to Government. The same principle was applied to all alluvial lands formed since the decennial settlement, and also to lands held under special pottahs from the collector; but in the last-mentioned cases the pottahs were to continue in force, according to their conditions, within the specified limits, "if in the possession of the original pottah-holder or his legal representative."

The Regulation then proceeded to lay down rules respecting the investigation to be made by the commissioner or collector in regard to such lands, and the powers to be exercised by him for the purpose of obtaining the production of deeds and other evidence, and the attendance of witnesses. The result of the inquiry was to be submitted to the Board of Revenue, who would decide whether the land reported upon should be deemed liable to assessment or otherwise. It was declared, that after the decision of the question by the revenue authorities, it should not be competent to the Government to disturb the title of the occupant, except on proof in a court of judicature of fraud or collusion in the inquiry. Persons considering themselves aggrieved by any decision of the revenue authorities under this Regulation, might institute a suit in a civil court against the Government within six months from the date of the decision complained of. It was finally declared, that the provisions of this Regulation were not intended to affect the right of proprietors of estates, for which a permanent settlement had been concluded, to the full benefit of all waste lands within the ascertained boundaries of their estates at the period of the decennial settlement, which had been since brought into cultivation; the exclusive benefit resulting from all such improvements being guaranteed to the proprietors by the conditions of the permanent settlement.

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* Lands in the Delta of the Ganges, including parts of the districts of the 24 pergunnahs, Nuddea, Jessore, Dacca Jalapore and Backergunge.

† That Regulation extended to Cuttack the rules enacted for the investigation of rent-free tenures, which will be found under the head "Special"—Revenue (B.)—Reg. VIII. 1811.

PART II.—Land Revenue—SPECIAL—*continued.*

(B.)—SPECIAL REVENUE REGULATIONS for the Ceded and Conquered Provinces. Bundlecund and Kumaoon.

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(B.)

SPECIAL REVENUE REGULATIONS for the Ceded and Conquered Provinces, *Bundlecund* and *Kumaoon.*

REVENUE ADMINISTRATION of the PROVINCES ceded by the NAWAUB VIZIER of OUDE.

REGULATION XXV.—1803.

Principles of the Settlement as proclaimed in 1802.

THE Judicial system of 1793 had been introduced into the provinces ceded to the East India Company by the Nawaub Vizier, by the first and following Regulations of 1803. It was recited in the preamble of Regulation XXV. 1803, that it was essential for the security of the rights and interests of the zemindars, and other landholders in the said provinces, that the right of property possessed by them in their respective estates, under the terms and conditions of the settlement of the land revenue contained in the proclamation issued by the Lieutenant-Governor* and the Board of Commissioners, under date the 14th July 1802, should be Reg. XXV. 1803.

* *See* 5th Report of the Select Committee, 1812, page 48 *et seq.*

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(3.) Regulations for the Administration of Revenue Affairs. (Special B.)

be publicly acknowledged and declared. That proclamation notified the intention of the British Government to adopt, at the expiration of the then current Fusly (1209), such a plan for the settlement of the land revenue, as might be most conducive to the prosperity of the country, and the happiness of the inhabitants.

The nature and terms of the settlement were declared to be, that at the commencement of Fusly year 1210, the sayer of every description should be separated from the land revenue, and a settlement for the latter only be concluded in all practicable cases with the zemindars or other actual proprietors of the soil for three years, at a fixed, equal annual jumma; such zemindars as should pay their revenue immediately to the collector were to be responsible for the police of their respective zemindaries.

At the expiration of the three years, another settlement was to be made with the same persons, if willing to engage for three years, formed on the principle of taking the difference between the annual amount of the first lease and the actual yearly produce of the land at the time of its expiration, and adding two-thirds of such difference to the annual rent of the first lease.*

At the expiration of the sixth year, a new settlement was to be made with the same persons, if willing to engage, for a further period of four years, by adding to the annual rent of the second three years, three-fourths of the net increase of revenue during any one year of that period. It was notified, that at the end of ten years, a permanent settlement would be concluded with the same persons if willing to engage, and if no others who had a better claim should come forward, for such lands as might be in a sufficiently improved state of cultivation, to warrant the measure, on such terms as the Government should deem fair and equitable. Zemindars declining the proffered engagements, and those whose offers should be rejected by the Government, were to continue to be allowed the same *nancar* as they had before received from the Nawaub Vizier. For the lands which had no proprietors, or of which the proprietors declined entering into engagements, a village settlement was to be made for three years, and a preference was to be given to the mocuddims, purdhauns or other respectable ryots of the several villages. All persons entering into engagements for the settlement were to bind themselves to grant pottahs to their ryots and under-renters.

The Regulation, besides the republication of the proclamation, contained rules for the discharge of the same revenue duties by collectors in those as in the Lower provinces, and in like manner under the superintendence of the Board of Revenue. It notified some few alterations in the details of the settlement, which had been issued by the commissioners subsequently to the date of the proclamation; not, however, infringing on the general principles of the proclamation: and it likewise declared the rules for apportioning the revenue on portions of estates when divided for sale, or at the desire of joint proprietors.

Regulation XXVII.—1803.

Collection of the Revenue and of Arrears.

Reg. XXVII. 1803.

It was provided that tehseeldars or native collectors should be appointed by the European collectors, to act under their orders in collecting the public dues from those lands, for the revenues of which settlements might not have been concluded with the zemindars. The amount of revenue to be collected by each tehseeldar was not to be less than two lacs of rupees nor more than three lacs of rupees per annum, except under the special permission of Government; they were to be allowed 11½ per cent. on their gross collections, from which they were to defray all charges and cover all risk and expenses, to make good all balances which might accrue in their respective jurisdictions, and to maintain an efficient police in their respective jurisdictions; they were also to make advances to the cultivators, taking bonds bearing interest at 12 per cent. per annum; and all engagements concluded by them were to be in the name and on the behalf of Government.† The tehseeldars were authorized to place watchmen over the crops, unless the ryots to whom they belonged should give security for the revenue.

The same rules for the recovery of arrears of revenue which were given in this Regulation, though generally conforming to the principles of the Regulations of 1793, were adapted to the state of proprietorship found to exist there in village zemindars holding in shares the property of the soil, and paying their revenues as a collective body, through one or more of the partners whose names were inserted in the engagements of the Government. The Regulation directed that when sequestration was necessary for the recovery of arrear, such sequestration should extend to the profits of all putteedars who should be parties to the Government engagement, without infringing the rights of the inferior sharers; and when at the expiration of the year an arrear should appear due, if the deficiency should have proceeded from embezzlement or misappropriation of the funds, the collector might be authorized by the Board of Revenue to transfer the rights of the defaulter to such other of the partners as should be willing, in consideration of such transfer, to pay up the balance due to Government. The defaulter was in such case to retain such portion of the lands as the sharers who should succeed him might be willing to allow.

It

Reg, V. 1805.

* By Regulation V. 1805, it was enacted, that in consideration of a severe drought which had generally prevailed in the Ceded Provinces in the Fusly year 1211, and which had subjected the landholders and cultivators to heavy losses, the settlement for three years in succession to the first settlement should be made at the same jumma as the preceding one.

Reg. XXI. 1806.

† By Regulation XXI. 1806, the Government were empowered, on the death or removal of the existing tehseeldars, to fix anew the amount of personal allowances to be granted to their successors, on consideration of the duties and responsibility with which they might be severally charged.

It was finally provided by this Regulation, that the three years' lease to be concluded by the collectors might at their discretion be made at an increasing instead of a fixed annual jumma; and detailed rules for the formation of such a settlement, and for the security to be taken for its fulfilment, formed part of this Regulation.*

Regulation IX.—1805.

Revenue Administration of the Conquered Provinces in the Doab and Bundlecund.

This enactment republished, in the form of a Regulation, the articles of proclamation issued to the landholders in the conquered provinces† within the Doab, ceded by Dowlut Rao Scindiah, and the territory in Bundlecund, ceded by the Peishwa. The proclamation notified that a settlement would be made of the land revenue, separated from the sayer for three years, from the commencement of Fusly 1213, to be followed, first, by another settlement for the same period, and subsequently by one for four years; and that at the end of the ten years expiring with Fusly 1222, a permanent settlement would be concluded with the same persons, if willing to engage, and if duly approved, for such lands as should be in a sufficiently improved state of cultivation, on such terms as Government should deem fair and equitable. The general principles of the settlement, and the rules for the preservation of right, were similar to those before enacted for the ceded provinces of Oude. Reg. IX. 1805.

Regulation X.—1807.

Appointment of Commissioners for the formation of the ensuing Settlement in the Ceded and Conquered Provinces.

A commission was appointed by this Regulation for the superintendence of the next ensuing settlements, and for the general control of the collectors in the discharge of that and other duties in the ceded and conquered provinces, with the exception of the Delhi jaghire lands and the zillah of Cuttack. The commission was to consist of two members, who were charged with all the duties and authority of the Board of Revenue, and were to visit the different districts as might appear necessary. The Regulation notified that the jumma which should be assessed in the last year of the settlement immediately ensuing the one then about to be made in the ceded and conquered provinces should remain fixed for ever, if the zemindars should be willing to engage for the payment of the public revenue on those terms in perpetuity, and if the arrangement should receive the sanction of the Court of Directors. The same principle was also declared applicable to Cuttack. Reg. X. 1807.

Regulation I.—1809.

Permanent Establishment of the Board of Commissioners.

By this Regulation the Board of Commissioners in the Upper Provinces was declared to be permanent. Reg. I. 1809.

Regulation VIII.‡—1811.

Investigation of Tenures held free of Assessment to be made by the Revenue Collector.

It was stated in the preamble to this Regulation, that there was reason to believe that individuals had unduly availed themselves of the difficulties experienced by public officers in establishing the claims of Government, to the resumption of the revenue lands which had been held free of assessment under invalid tenures, and that as such claims under the existing rules were only cognizable in the courts of judicature, many persons speculating on the chance of their not being enforced had appropriated to themselves the revenue of lands properly appertaining to the state. The present Regulation enacted, that in those parts of the ceded and conquered provinces which had been declared subject to the authority of the Board of Commissioners, the former rules respecting lands exempted from revenue should be rescinded, and that collectors should report to the Board of Commissioners regarding all lands within those districts, which they might believe to be held so exempt from assessment under invalid tenures, and the Board might direct the collector to investigate the claim and examine the title; and on consideration of his proceedings, they were to decide whether or not the land should be deemed liable to the public assessment. Persons considering themselves aggrieved by the decision of the Board might institute a suit in the courts of judicature against the Government within six months after the date of the Board's decision. Persons succeeding to tenures free of assessment, whether by gift, purchase or other transfer, were to notify their succession to the collector within six months, under the penalty of a fine not exceeding a tenth part of the annual produce of the lands. Reg. VIII. 1811. (Rescinded by Reg. II. 1819.)

Regulation

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* Some misapprehensions having existed in regard to the admissibility under certain circumstances, at the end of the first lease of persons claiming to be zemindars, who had been excluded at its commencement, Regulation V. 1808 was enacted to remove such difficulties, and to explain the intentions of Government in that respect. Reg. V. 1808.

† These provinces, though obtained in 1803, were not brought under the Regulations until the passing of this enactment, after which the legislative provisions regarding them were united with those for the provinces ceded by the Nawaub Vizier.

‡ This Regulation was extended to Cuttack by Regulation V. of 1813, and to Bahar and Benares by Regulation XI. 1817.

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(3.) Regulations for the Administration of Revenue Affairs.

Regulation IX.—1811.

Providing facilities for the Division of Putteedary Estates or Village Tenures held in Coparcenary.

Reg. IX. 1811. (Special B.)

This Regulation was enacted to facilate the operation of the rules of Regulation V. 1810, and to provide more effectually for the subdivision of putteedary estates in the village zemindaries in the districts subject to the control of the Board of Commissioners. It declared that any putteedar or sharer of a joint undivided estate, having a right to one or more distinct village or villages in such estate, might apply to have the same separated; and the same privilege was declared to belong to any sharer holding any fractional part of such estate. The proceedings to be adopted by the collector in the measurement of the portion to be divided, and in investigating questions that might arise in the course of such proceedings were laid down, and it was declared that after the separation had taken place, no separated portion was to be held answerable for any arrears of revenue which might accrue on the other parts of the estate.

The Board of Commissioners were further empowered, in cases of default in the payment of the revenue by any joint sharer, to authorize a conditional transfer of the share of such defaulting proprietor, by way of mortgage, to the proprietor of any other share of the same general estate; possession to be restored to the defaulting proprietor on payment of the consideration for which it had been transferred, at any time within five years from the date of the transfer. If payment of the principal and interest should not be tendered within five years, the share was to become the *bonâ fide* property of the mortgagee.

Regulation IX.—1812.

Settlement of the Revenue of the Ceded Provinces in Oude after Fusly 1219.

Reg. IX. 1812.

This Regulation, referring to the declaration in Regulation X. 1807, that the jumma assessed upon the estates in the ceded provinces in the last year of the quartennial settlement, terminating with the Fusly year 1219, should remain fixed for ever, provided the arrangement should receive the sanction of the Honourable Court of Directors, notified that the said Honourable Court had not deemed it advisable to sanction that arrangement; it therefore rescinded the provisional clause referred to, but declared that the rule which notified that a permanent settlement would be concluded for such lands as might be in a sufficiently improved state of cultivation to warrant the measure, on such terms as the Government should deem fair and equitable, was to be considered in full force and effect. This Regulation accordingly directed, that the Board of Commissioners should ascertain and report to the Government what estates were in such condition; and that in all such cases a revision should be made of the jumma assessed upon those estates, on the principle of leaving to the proprietors a net income of 10 per cent. on the jumma, exclusive of charges of collection; the jumma to be so assessed, when confirmed by Government, was to remain fixed for ever. The Board of Commissioners were likewise to report to Government the condition of estates not so improved, and the Government would determine the settlement of such estates should be made for three, five or any other term of years.

Regulation X.—1812.

Settlement of the Revenue in the Conquered Provinces on the Jumna, and in Cuttack.

Reg. X. 1812.

This Regulation (referring to the Regulations IX. and XII. 1805, and X. 1807, and to the declaration that the settlements to which they respectively referred in the conquered provinces, and on the right and left banks of the Jumna and in Cuttack, would be made permanent, at the amount of the settlement of the last year of that period, in the event of that arrangement receiving the sanction of the Court of Directors) notified, that the Court had not deemed it advisable to confirm that arrangement. It was however declared that the same course would be adopted in regard to lands in a sufficiently advanced state of cultivation to admit of the assessment being fixed, as was provided in regard to the Oude provinces by Regulation IX. 1812.

Regulation I.—1815.

Life Tenures at a fixed favourable Assessment, under Grants from the Native Government.

Reg. I. 1815.

The preamble noticed the permission granted by the British Government to the occupants of land in the ceded and conquered provinces and in Bundlecund, held at a fixed favourable jumma, under recognized grants of the native governments, to hold the same according to the terms of the grants during life; and in order to obviate every doubt respecting the right of the British Government to impose an adequate assessment on such lands on the death of the life tenants, the Regulation declared it to be the duty of the collectors, on the death of any such grantee, to fix an adequate assessment on the lands, subject to the final orders of the Board of Commissioners and the Government.

Regulation XVI.—1816.

Settlement of the Revenue in the Ceded Provinces of Oude till Fusly 1229.

Reg. XVI. 1816.

A settlement having been made in these provinces (under the provision in the latter part of Regulation IX. 1812) which would expire in Fusly 1224, this Regulation declared that

that the extension of that settlement for a further period was calculated to promote the interests of the landholders, whilst it would afford due time to the public officers to collect the materials indispensably necessary as the basis of any ulterior proceeding. It accordingly declared, that the then existing settlement should continue in force until the expiration of the Fusly year 1220. under certain detailed provisions.

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(3.) Regulations for the Administration of Revenue Affairs. (Special B.)

Regulation II.—1818.

Settlement of the new Territories annexed to Bundlecund.

Certain districts ceded to the East India Company by Nana* Govind Rao having been annexed to the zillah of Bundlecund, power was reserved to the Government to fix at their pleasure the periods for the formation of the revenue settlements of these districts. Reg. II. 1818.

The revenue authorities were directed to ascertain and record the customary rights, usages and privileges of the several proprietors and occupants of land in these districts, in which it was understood that many of the estates were held by numerous proprietors in joint tenantcy.

Regulation IX.—1818.

Settlement of the Revenue in the Conquered Provinces after Fusly 1227.

The settlement formed under the provisions of Regulation X. 1812, in the conquered provinces on the Jumna, and in the Peishwa's cessions in Bundlecund, being to expire with the Fusly year 1227, it was provided that the same settlement should continue for five years more with the actual proprietors of the soil. From this arrangement, however, was excluded the southern division of Saharunpore, of which the settlement had been formed on very insufficient data, and in which a new settlement was to be made for a term of five years. Reg. IX. 1818.

Regulation I.—1821.

Appointment of a Special Commission, to afford Redress in Cases of illegal Transfer and Appropriation of Lands in the Ceded and Conquered Provinces.

The preamble to this Regulation stated, that during the first seven or eight years after the acquisition of the ceded provinces, the native officers of the Government, and persons connected with them, had contrived, by various fraudulent practices, to possess themselves of extensive estates in those provinces, wrongfully depriving the ancient landholders of their just rights. The means chiefly resorted to in furtherance of these iniquitous practices, were the abuse and perversion of the rules for the sale of lands on account of arrears of revenue. Such sales, it was observed, were meant by the law to be had recourse to in cases of embezzlement, contumacy or fraud; whereas it appeared, that in the prosecution of the fraudulent schemes above noticed, many estates had been sold on which a trifling balance only was due, which had accrued without either embezzlement or wilful default on the part of the person who had engaged to pay the revenue. In some cases the prescribed forms had been observed; in others, the liability of the proprietors had not been ascertained, as where the parties who had become responsible for the revenue had only a very limited interest, or no fixed right, in the mehals sold, but had been recorded as proprietors on the faith of fraudulent statements; in other cases, the tehseeldars themselves had been the real managers of the estates, having substituted creatures of their own, or even fictitious names, as the ostensible payers of the revenue; under such circumstances the tehseeldars, in collusion with the persons fraudulently recorded as proprietors, had procured sales to be effected for the purpose of acquiring thereby an ostensible title for themselves or their agents. In other cases, the persons fraudulently recorded as sole proprietors of mehals, in which they held a limited or no interest, had been induced to execute deeds of sale in favour of the public officers or their connexions, purporting to convey the exclusive property of the lands comprised in the mehal, of which they were the ostensible proprietors, and on the faith of such deeds the purchasers had been recorded as sole proprietors. The consequences were an extensive usurpation of private rights, and the annihilation of institutions by which the village communities had immemorially been regulated. It was further stated, that in many cases of sales which had been legally and correctly effected, the purchasers had claimed to possess the whole of the land comprised in the mehals sold, without regard to the private rights of village zemindars, putteedars and other proprietors, whose tenures were independent of the revenue engagements of the defaulter; the only change in reality effected by the sale, as regarded such persons, being a transfer of their obligations, (viz. to pay their quota of revenue,) from the defaulter to the purchaser; whereas by the irregularities above noticed, such putteedars and others had been deprived of their just rights, and either ousted from their lands or reduced to the condition of tenants at will. Independently of the before-mentioned cases of abusive alienation, much serious injury appeared to have accrued to the village proprietors from the insufficiencies, errors and defects of the public records, in relation to the various rights and interests of individuals and communities in the land, whereby persons justly entitled to engage in chief for the revenues of the lands occupied Reg. I. 1821.

* Of Kalpe, a dependant on the Peishwa's government, and jaghirdar or manager of Saugur on the frontier of Bundlecund.

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occupied by them, had been excluded in favour of others erroneously recorded as proprietors. The parties who had suffered these wrongs were prevented from obtaining redress by their poverty and ignorance of the forms of judicial proceedings; while those by whose acts they had been injured, possessed extensive influence and authority as public officers of Government, and had a thorough acquaintance with all the prescribed forms of procedure.

The preamble proceeded to set forth the grounds on which it appeared that the regular courts of judicature were not competent to afford the extensive relief which the cases referred to required. It was stated, that much delay and expense necessarily attended judicial proceeding; that in order to render substantial justice in such cases, a thorough research into voluminous and complicated revenue accounts, minute local inquiries, and a free and constant communication with the parties concerned, and with the local officers, such as the constitution of the established courts would not admit of their pursuing, must necessarily be resorted to; that in the adjustment of doubtful claims, an extensive discretion must be exercised by the deciding authority, inconsistent with the practice of the regular judicial tribunals; and that finally, if all these and other obstructions to the course of regular judicial proceeding could be removed, so great a portion of time could not be bestowed by the courts as would be requisite for the due investigation of such cases, without serious injury to the interests of the other suitors. In consideration of the above circumstances, it had appeared to the Governor-general in Council to be essentially necessary to the ends of justice, that a special commission, with large discretionary powers, and with full authority to regulate its proceedings, according to the exigencies of the cases brought before it, should be constituted for the purpose of restoring to their just rights the zemindars and other proprietors who had been wrongfully dispossessed, and defining and fixing the real nature and extent of the interests and titles conveyed to the purchasers, in cases in which sales might be upheld; of restoring proprietors whose estates might, in consequence of the errors in the administration above noticed, have been transferred to others, on account of a trifling balance, or for inadequate consideration; of granting redress to persons who might have lost the possession or management of their estates without just cause, under the operation of a public sale, or through any act of a revenue officer, or who might have been wrongfully excluded from engagements with Government; and of making an equitable adjustment of doubtful claims, including the relinquishment, upon due compensation, of rights acquired or held under the strict operation of the law, by means inconsistent with equity and justice, or involving excessive hardship to the sufferers.

In furtherance of the views above detailed, the Regulation provided for the appointment of a special commission, to consist of one or more members, as the Governor-general in Council should determine, to be denominated the "Mofussil Special Commission under Regulation I. of 1821," who should receive, investigate and determine all claims to recover possession of land lying within such limits as the Governor-general in Council might from time to time appoint, which had been lost by sales or transfers under the undue influence of public officers, from the period of the cession or conquest of the province.

The commissioners were authorized to annul public sales, in cases in which it should appear to them that no balance or a very trifling balance was due when the sale was made, or that the sale had been irregular in any important point, or that the purchase had been made by a public officer or a dependent of his, or in a fictitious name; and they were to direct the restoration of the property to the proprietors who had lost possession under the operation of the sale. They were also authorized to annul private transfers effected by violence, extortion, or undue influence of the officers of Government; and on like grounds to determine mortgages and trusts, and other limited or conditional assignments. They were authorized to try and decide upon claims for the recovery of lands belonging to any mehal which had been lost to the claimant by an invalid sale; or though the sale were valid, by illegal consequences resulting from the effects of that sale. And they were to investigate all claims of persons admitted to engage in chief with Government whose proprietary right had been unduly set aside. They were to record on their proceedings clear definitions of all rights and interests ascertained and decided by them. In cases in which relief might appear to be due according to equity, but not under any Regulation, the commission might use its authority to induce the parties to compromise; and failing that endeavour, they might make such award as equity and good conscience should require. And where a title had been acquired under any order or act of the revenue authorities of Government, the commission might award compensation to the party deprived, provided that in cases of compensation exceeding 1,000 rupees, the sanction of Government should be first obtained for the disbursement. The jurisdiction of the commission was to extend to all cases of the nature of those before described, even to the annulling of previous decisions of the courts of judicature, and within such local limits as the Governor-general in Council should notify by proclamation, which would likewise specify the period for which the commission should be appointed. The commission were empowered, either on the application of parties or of their own motion, to call up pending cases from the courts in which they have been instituted. On the removal of any suit from a court to be tried by the commission, stamp fees were to be repaid to the parties. The commission were vested generally with the same powers in the execution of their duties as were possessed by the civil court; and they were to exercise the same authority over canoongoes, putwarries and other officers of account in the provinces as the collectors and courts were authorized to exercise.

Provision was next made for the appointment of a superior or chief special commission, to be denominated the "Sudder, Special Commission," who should have authority to superintend and review the decisions passed by the Mofussil Commission: it was to consist

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sist of two or more such officers as the Government might appoint, and was to exercise generally over the Mofussil Commission the same authority as the Sudder Dewanny Adawlut exercised over civil tribunals. The decisions of the Mofussil Commission, unless revised and altered by the Sudder Commission, or appealed to them within the period of six months from the date of the decree appealed against, were to be final. In cases which, if decided by the Sudder Dewanny Adawlut, would have been appealable to the King in Council, such appeal was to lie from the decisions of the Sudder Commission, and under the same rules and regulations; but the decisions of the Sudder Commission were to be immediately executed, notwithstanding the institution of the appeal to His Majesty in Council. No exceptions were to be taken to the decisions of either of the commissions on the ground of want of jurisdiction, except by the Sudder Commission in cases appealed to them from the Mofussil Commission, or by His Majesty in Council; and no courts of judicature were to stay the proceedings of the commission.

The commissioners were to be guided generally by the rules prescribed for the courts of civil judicature, and were to decide according to the principles and spirit of the Regulations, and according to equity and good conscience. They were also authorized to submit to Government new Regulations, or modifications of existing ones. The commissioners were to take an oath of office.*

Regulation VII.—1822.

Declaring the Principles on which the future Settlements of the Revenue should be made in the Ceded and Conquered Provinces.—Extension of the Revenue and Judicial powers of Collectors.

This Regulation, framed at the expiration of the settlements of the revenue in the ceded and conquered provinces and Cuttack, and contemplating the early termination of those in other portions of the provinces, was intended to lay down the principles on which the demand of the state was thenceforward to be regulated, and the manner in which future settlements and revisions were to be conducted. It declared that the efforts of the revenue officers should be directed chiefly, not to any general enhancement of the assessment, but to the equalization of the public burdens, and the ascertaining, settling and recording the rights, interests, privileges and properties of all persons and classes owning, occupying, managing or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any persons resident in, or owning, occupying or holding parcel of any village or mehal. With these views and intentions, the Government had deemed it proper to continue with certain exceptions the existing assessment, where it had been formed with the zemindars or other persons acknowledged as proprietors, or possessors of a permanent interest in the mehal for which they had engaged, until a new settlement could be made after a deliberate investigation, not only of the facts by which the amount of the Government assessment ought to be determined, but also of the rights and interests of all classes connected with the land. Reg. VII. 1822.

It was stated to be the desire of the Government, that while collectors were engaged in these inquiries, they should be empowered to adjudge and determine upon all demands, claims and suits regarding lands and revenue which might come before them, and that such adjudications should be held good unless they should be declared erroneous or incomplete by a regular suit in a court of justice. For this purpose it was necessary to define the power and authority to be exercised by collectors in these respects. It was further declared expedient to state the views of Government relative to the rights of all sudder malguzars, i. e. persons who engaged for the payment of the Government revenue into the public treasury; and relative to the rights of jaghirdars and other owners or managers of lands not paying any portion of their produce to the public treasury. Another object was declared to be to protect the interests of the coparceners in joint tenures, such as those known by the name of putteedaree or byecharee, from the encroachments of the parceners who should have engaged with the Government for the payment of the revenue on all the shares; and on the other hand, to secure the engaging parceners from the consequences of embezzlement, or misappropriation by their coparcener, of the funds from which the Government revenue ought to be discharged.

With the views so announced in the preamble, the Regulation began by declaring that the settlement in the ceded provinces and Cuttack was to be continued for five years, till the expiration of the revenue year 1234, provision being made for particular divisions, in which the custom of an annual settlement had obtained.

With respect to lands which had been let in farm, it was declared that at the expiration of the leases a settlement might be made with the zemindars, or others possessing a permanent property in the mehals; or in case of their declining to engage, they might again be leased on farm, but for periods not exceeding twelve years.

It was distinctly declared, that in admitting particular parties to engage with the Government for the revenue of any lands, it was in no degree the intention of Government to compromise

* It was provided by Regulation XVIII. 1829, that in cases which were depending in the courts of justice, and which were declared cognizable by the Commissioners of Revenue (and Circuit), succeeding to the powers of the Mofussil Special Commissioners, the parties should be required by the courts to state whether it was their wish that their suits should be transferred to the said commissioners. If either party desired the transfer, the proceedings and documents in the case were to be made over by the court to the commissioners; but if neither party desired the transfer, the court were to proceed to adjudication. Reg. XVIII. 1829.

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(Special B.)

compromise any private rights or privileges possessed by under tenants or original payers of revenue; that, on the contrary, it was the bounden duty of the officers of Government to protect all such rights, and that the stipulations of the existing settlements should not be construed to prevent the revenue officers, duly empowered in that behalf, from interfering to adjust the relative rights of the sudder malguzars and the under tenants.

Rules were laid down for the adjustment of the malikanah to be received by proprietors whose estates should be let to farm or held khas, such malikanah not to be less than five or more than ten per cent., to be apportioned to the several co-parceners in joint estates, and to be subject to deductions in case of any actual profits drawn from their estates by the proprietors, and also admitting increase at the pleasure of the Government for any special duties that might be performed by such proprietors.

The Regulation next provided, that during the period for which the settlements were to be renewed or continued under the present Regulation, it should be competent to the revenue officers to institute full and particular investigations into the extent and produce of the lands, and the due amount of the assessment to which they should be subject; and also into the rights, privileges, interests and properties of the agricultural community; but no increase of the existing assessment was to be made during the period of the existing leases, except on the discovery of land fraudulently concealed; and on such land, it was to be competent to the collector to impose a proper assessment under the authority of the Board of Commissioners. It was provided, that after the investigation directed by this enactment had been completed, engagements might be entered into with proprietors willing so to engage for such periods beyond the time of the then existing engagements, as the Government might determine; but no increase of the revenue was to take place, unless it should clearly appear that the net profits to be derived from the land by the zemindars would exceed one-fifth of the previous assessment; and in the event of such increase being made, the assessment was to be so regulated as to leave to the zemindars a net profit of 20 per cent. on the jumma.

In cases of extensive waste lands belonging to any mehal, greatly exceeding the quantity required for pasturage or other useful purposes, it was declared competent to Government to grant leases for portions thereof in perpetuity or for long periods, assigning in such case to zemindars or others, who might establish a right of property in the waste lands so granted, an allowance equivalent to 10 per cent. on the assessments, in lieu and bar of all rights, privileges and perquisites therein.

The Regulation next proceeded to specify the details of the investigation to be made by collectors in regard to the tenures, rights and privileges of the various classes of the agricultural community. It was directed, that their proceedings should embrace the formation of as accurate a record as possible of local usages connected with landed tenures; a specification of the persons enjoying the possession or having any heritable or transferrible interest in the lands or the rents of it; in cases of villages or the like held in coparcenary, the record was to contain a register of every person who occupied lands or disposed of its produce or received rents, with a detailed statement of the interior arrangements adopted by the brotherhood or coparcenary, for the distribution of profits, and for determining the respective contributions of each parcener to the Government assessment or the village expenses. A record was also to be formed of the rates demandable from all the different classes of cultivators, and the number and allowances of all putwarrees or village registrars and village watchmen; and also a specification of the nature of all lakhiraj tenures. The information to be collected was to be arranged and recorded so as to admit of an immediate reference to it by the courts of judicature; and these records were to be considered evidence of the facts to which they related, until set aside by a judicial inquiry. All collections not taken into account in making the Government engagements were to be held illegal. It was declared competent to collectors to grant to village zemindars and ryots, pottahs, specifying the amount to be paid by them, and all the conditions of their tenure, and all such pottahs were to be recorded in the collector's proceedings.

Provision was next made for admitting the different classes of persons having joint or separate interests in villages or mehals to engage with the Government according to their several rights; the nature of the responsibility of those members of a coparcenary, or a community who should engage on behalf of their brethren, and the relation in which the other sharers or proprietors should be considered to stand towards them were defined; it was also provided, that when engagements for the revenues of lands in which such rights existed should be made with an intermediate agent, a record of the rights of the proprietors or hereditary officers of the soil should be endorsed upon or incorporated with the engagements taken from the sudder malguzar. It was left to the discretion of Government to determine in what cases the engagements for lands held in joint tenancy should be made with the whole body collectively, or with one parcener on behalf of the whole, or with each individual for his own share. In making the record above directed, collectors were to record the authority on which their entries rested. They were also to rectify all errors or omissions of former settlements, holding in such cases an official proceeding explanatory of the grounds on which they acted.

The collectors were authorized to give effect to the custom in regard to lands held in joint tenancy, of distributing the payments according to the shares, or of causing fresh partitions of the land according to the rights of the several joint proprietors. It was declared competent, however, to any such proprietors who might dispute the existence of the custom under which such distribution might be made, to institute a suit for setting aside the collector's decision on that point; but if the existence of the disputed custom was established by such suits, it was not to be competent to the court to question the accuracy of the partition of the land, or the adjustment of the payments.

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The Regulation next empowered collectors to decide in the first instance on questions of right of occupancy, which should come before them while making or revising settlements. In disputes of this nature, they were empowered to declare the nature of the tenure of any persons occupying the soil, and the extent of the interest belonging to any sharer in a village, and to enforce their decisions in the first instance, leaving the party who might deem himself aggrieved to seek redress in a regular suit in the Adawlut; provided that collectors should in no case take cognizance of any claim to hold a larger portion or a more extensive property than was alleged to have been before possessed by the claimant. Collectors were also authorized to take cognizance of questions of dispossession, and to award possession, if the party complaining of being dispossessed had held the litigated property during the year before the complaint.

In the settlement of lands resumed, as having been held free of assessment without a valid title, it was declared competent to collectors to investigate all claims to property in such land, and to give possession to, and conclude a settlement with the party who should appear to have the best title, and this decision, subject to the orders of the superior Revenue Board, was not to be set aside except on a regular suit and judgment by a court of justice.

The Governor-general in Council might give to collectors making or revising the settlement of any mehal, whether before held free of assessment or subject thereto, power to take cognizance of claims to the property or possession of the lands lying within such mehal, or the rent or produce thereof, the grant of such special power being notified by proclamation.

Collectors were empowered, while making or revising the settlement of any district, to hear and determine claims to right of property in lands held free from Government assessment on valid tenures, and if satisfied that the claimants possessed an hereditary and transferrible property in the land or its produce, then to conclude a settlement with such persons on behalf of the person enjoying the revenue, for such period as the Governor-general in Council should direct; they might grant to the persons who had established the right of property in the land, pottahs declaratory of their tenure; and they might further fix the amount of proprietary allowance, which the receivers of the revenue should be bound to make to them in the event of their being removed from the occupancy and management of their lands. Persons dissatisfied with the collector's decision might appeal to the civil courts on the question of right of property, but not as to the terms of settlement for the amount of proprietary allowance; the courts were not to disturb the possession given by the collector except on the decision of a regular suit.

Full powers were granted to the collectors to summon and examine witnesses, and to require the production of accounts; and penalties were declared for resistance of process or refusal to give evidence, and for false testimony on oath.

It was declared competent to the Governor-general in Council to restrict the powers to be exercised in the matters before stated, by collectors engaged in revising or making settlements; and also to vest all such powers in collectors, though not engaged in making or revising settlements; and to vest in any collectors, whenever he might think proper, authority to hear and determine by summary process, all suits between receivers and payers of revenue in all matters connected with land, its rents and produce, the delivery of pottahs, the violation of engagements, and generally all disputes between persons who pay the revenue to Government and those from whom they receive; the grant of such powers to be notified by proclamation; in which cases all suits of the above descriptions pending in the courts were to be immediately transferred to the primary cognizance of the collector, provided the plaint or application should have been preferred within one year after the cause of action arose.

The powers and proceedings of collectors in the conduct of these suits were to be similar to those exercised by the zillah courts; and it was declared that their cutcherry or office should for the time being be deemed to be a court of civil judicature. The decisions of the collectors were only to be set aside by regular suits, which might be brought in order to contest decisions passed by collectors under the judicial powers granted by this Regulation. Such suits were to be in the nature of appeals to the court in its regular jurisdiction from a summary award. The collectors were to execute the awards they might make for the payment of any sums of money, by levying the same by the process in use for the recovery of arrears of revenue. In regard to real property adjudged, the collectors were to put the parties into possession, but were not to sell any real property in satisfaction of any judgment on a summary investigation.

Collectors making or revising settlements might appoint native officers to make investigations, examine accounts, and measure lands; and resistance to their measures in these respects was declared punishable.

In summary suits before collectors under this Regulation, parties might employ any vakeels they chose, and the collectors might award to them a fit remuneration. The pleadings, which were to consist only of plaint and answer, and the final decree, were to be written on stamp-paper of the value of half a rupee, and no other fees or expenses were to be incurred. The collector might hold his court in any part of the district, but the suits must be heard in public, and in the presence of the parties or their vakeels.

A petition of appeal against any decision of a collector under this Regulation might be presented to the superior Revenue Board, written on stamp-paper of two rupees, within three months from the date of the decision; no other pleading was to be required; the parties, who were to receive notice of the appeal, were not required to be present, the Board would decide on consideration of the collector's proceedings. Parties dissatisfied with the decision of the Board might prefer a regular suit in the civil court, but the summary judg-

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ment of the collector, if not reversed or stayed by the Board, was to be carried into effect, notwithstanding the institution of a regular suit.

In regular suits instituted in the civil court to set aside the decision of a collector, the proceedings held upon his summary inquiry were to be called for by the court, and to form part of the record of the case; and no such suit was to be cognizable by or referred to a registrar or native commissioner.

Collectors were to furnish the superior Boards with periodical reports of their decisions.

Power was given to collectors to refer to arbitration, with the consent of the parties, all such questions as they were enabled themselves to determine by this Regulation, and to carry the award into execution; the pergunnah canoongoes and tehseeldars might be appointed arbitrators in such cases.

In cases in which disputes might exist in regard to rights or possession, likely to produce breaches of the peace, it was declared competent to the collectors to require the attendance of the parties, and to decide the case as if it had been brought before him by complaint of one of the parties; collectors might also give possession, or retain the lands under the management of a public officer, subject in all cases to the orders of the superior Board. When any case similar to the above might come under the cognizance of a magistrate, he was to refer the question of right for the examination and decision of the collector.*

Regulation I.—1823.

Explanatory of the Powers of the Special Commission under Regulation I. *of* 1821.

Reg. I. 1823.

This Regulation was enacted to remove a doubt which had existed as to the power of the special commission to annul sales of land under any other circumstances than those of such sales having been effected by the undue influence of public officers; and it was declared that they had authority to entertain and decide suits for annulment of any sales, by which an unjust transfer of rights had been effected, though there might be no proof that such undue influence had been exercised; and it was further provided, in regard to any cases which such commissioners might have dismissed, under the erroneous views beforementioned, that they might rehear the same, and pass judgment thereupon.

Regulation IX.—1824.

Settlement of the Conquered Provinces and Bundlecund.

Reg. IX. 1824.

The preamble to this Regulation recited, that the then existing settlement of the conquered provinces and Bundlecund would expire with the ensuing Fusly 1232 (A. D. 1824/5), but that it was expedient to continue it for a further period, until a careful revision could be completed, and that it was desirable to make further provision for securing the improvement of the country. The Regulation accordingly provided for the renewal of the existing settlement for five years, from Fusly 1233 to 1237 inclusive, with power to the collector, subject to the orders of the Board of Revenue, to make a re-settlement, in regard to any particular mehals in which a revision had taken place, under the rules of Regulation VII. 1822. It was further enacted, that at the expiration of the five years of the settlement thus renewed, the same engagements should continue in force until a detailed revision, as prescribed by Regulation VII. 1822, or otherwise specially authorized by Government, should have been made, and until due notice should have been given to the landholder of a new assessment by the Board of Revenue. Estates which had been let on farm were to be resettled, and zemindars to be admitted to a preference of settlement. Power was reserved to the Board of Revenue, with the sanction of Government, to renew farm leases, or to keep the lands which had been farmed under khas management.

Regulation II.—1826.

Settlement of the Ceded Provinces in Oude.

Reg. II. 1826.

The settlement of the ceded provinces in Oude being about to expire in Fusly 1234, it was provided by this Regulation, that the same should be extended for a further term of five years, with the persons recorded as proprietors or possessors of a permanent interest in the lands, and should continue until a careful revision of the settlement should have been effected. In cases in which such revision might have been already effected, new engagements and settlements might be entered into. At the expiration of existing farm leases, new settlements might be made with the zemindars, if willing to engage. If they were unwilling

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Reg. IX. 1825.

* By Regulation IX. 1825, this Regulation was extended to the other provinces under the Bengal Government; *see* Revenue (A.)

Reg. IV. 1828.

By Regulation IV. 1828, collectors were declared competent, while engaged in revising settlements under Regulation VII. 1822, to hear, try and determine all claims to property within the limits of their revenue jurisdiction under that Regulation, and to set aside all summary decision of magistrates passed under Regulation XV. 1824. The decision of the registrar was not to be disturbed, except by order of the superior Board, or by a judgment upon a regular suit. The Regulation specified the period during which a collector should be held to possess the special authority vested in him by Regulation VII. 1822, viz. from the date on which the first orders should be issued, of which intimation was to be given to the magistrate, until the date when the revenue settlement in which he was engaged should be finally sanctioned by Government.

unwilling to engage, the lands might again be let on farm leases for periods not exceeding twelve years. Zemindars who had wilfully deteriorated their estates were to be excluded from settlement, and their lands might be let on farm leases for fifteen years.

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Regulation VI.—1831.

Revenue Administration of the Conquered Provinces in the Doab and Bundlecund.

By this Regulation the judicial powers exercised by the resident at Delhi were to cease, and the police and criminal authority exercised by British officers under the instructions of the Government in the Saugur and Nerbudda territories were also to cease. On the promulgation of this Regulation the commissioner who was to have authority in those territories was to exercise the duties of commissioner of circuit in the trial of criminal cases, but without referring his proceedings for the futwa of a Mahomedan law officer. In cases in which the commissioner was not competent to pass sentence himself, he was to refer the case to the final decision of the Nizamut Adawlut for the Western provinces, accompanied with an explanation of any special customs, the knowledge of which might be necessary to the proper understanding of the proceedings; and the Nizamut Adawlut for the Western provinces, upon the receipt of such referred trial, were to pass a final judgment without referring the proceedings to their law officers. The commissioner in the Saugur and Nerbudda territories was to be guided generally by the existing Regulations; but it was declared competent to the Governor-general in Council to issue from time to time, under the official signature of a secretary to Government, any special rules that might be deemed necessary for regulating the process before trial, or the form of trial to be observed by such commissioner.

Reg. VI. 1831.

(*see* Special Judicial B.)

Regulation X.—1831.

A Board established at Allahabad, by Deputation from the Sudder Board at the Presidency.

The preamble declared it to be requisite, in order to the efficient superintendence of the revenue settlements in progress in the Western provinces, and generally of the revenue arrangements in those remote dependencies, to provide for the temporary deputation of one or more members from the Sudder Board to be ordinarily stationed at Allahabad, and to possess exclusive control in those matters over the tracts of country placed under their management. The Regulation accordingly authorized the Governor-general in Council to depute one or more members of the Sudder Board to exercise such authority at Allahabad. The authority of the Sudder Board at the Presidency was to cease in the districts placed under the Sudder Board on deputation, whose jurisdiction was to embrace the province of Kumaoon and the Saugur and Nerbudda territories. The Board on deputation were declared to be vested with all the powers of the Sudder Board of the Presidency, and were to be guided by the same rules and regulations. Whenever the number of members present with the Board on deputation should be reduced to one-half, or if two should be present, and a difference of opinion should arise between them on a subject requiring the concurrence of two voices, the question was to be referred for determination to the Sudder Board at the Presidency. Similar references might be made from the Sudder Board at the Presidency to the Board on deputation. It was declared competent, however, to the Governor-general in Council to vest a single member with the whole powers of the Board whenever he should deem such measure expedient. He might also fix the station of the Board on deputation at any place he might see fit.

Reg. X. 1831.

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(3.) Regulations for the Administration of Revenue Affairs. (Special C.)

PART II.—Land Revenue—SPECIAL—*continued.*

(C.)—SPECIAL REVENUE REGULATIONS for CUTTACK.

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(C.)

SPECIAL REVENUE REGULATIONS for *Cuttack.*

REGULATION XII.—1805.

Principles of the Revenue Settlement.

Reg. XII. 1805.

THIS Regulation recited the proclamation relative to the settlement of the land revenue in the territory called "Mogulbundy," being that part of the zillah of Cuttack in which, according to established usage, as in Bengal, the land itself was responsible for the public revenue. The proclamation dated the 15th September 1804 notified, that at the commencement of the Umlee year 1212, the land revenue would be separated from the sayer, and a settlement would be made for the former in all practicable cases with the zemindars for one year; that at the end of that year a settlement for three years would be concluded; then one for four years; and finally, one for three years more; at the end of which a permanent settlement would be concluded with the same persons, if having the best claim and being willing to engage, for such lands as should be in a sufficiently improved state of cultivation, on such terms as the Government should deem fair. All sayer duties were declared to be abolished, with the exception of those on spirituous liquors and the duties levied from pilgrims at Juggernath. The same provisions were made in this as in the other proclamations in newly conquered provinces for the preservation of the existing rights which might be in abeyance. The Regulation extended the provisions of the principal Revenue Regulations enacted in previous years, adapting them in particular instances to the circumstances of the province of Cuttack.

REGULATION X.—1807.

Settlement of the Revenue.

Reg. X. 1807.

IT was declared by this Regulation, that the jumma which should be assessed on the estates of the zemindars in the last year of the settlement immediately ensuing the one then existing should remain fixed for ever, if the zemindars should be willing to engage for the payment of the public revenue on those terms in perpetuity, and if the arrangement should receive the sanction of the Court of Directors.

REGULATION VI.—1808.

Appointment of a Commission for Cuttack.

Reg. VI. 1808.

BY this Regulation a commission of one or more members, as the Governor-general should direct, was appointed for the formation of the ensuing settlement, and for the general superintendence of the revenue affairs, with the powers of the Board of Revenue; and it was notified, that an assessment for one year (Umlee 1216) would be made, after which a settlement for three years; and that the jumma which should be assessed on the lands in the Umlee year 1219 should remain fixed for ever, if the zemindars were willing to engage for the payment of the public revenue on those terms, and if the arrangement should receive the sanction of the Court of Directors.

REGULATION

Regulation IV.—1810.

Abolition of the Cuttack Commission.

The office of commissioner in Cuttack was abolished in 1810, the objects for which it was established having been accomplished; and the revenue affairs of the province were re-transferred to the superintendence of the Board of Revenue.

Regulation X.—1812.

Settlement of the Revenue.

Reg. X. 1812.

This Regulation notified that the Honourable Court of Directors had not deemed it expedient to confirm the arrangements which had been conditionally notified in Regulation X. 1807 and VI. of 1808. It was however declared, that at the expiration of the Fusly 1222, a permanent settlement would be concluded with the proprietors (if willing so to engage) of such estates as should be in a sufficiently improved state of cultivation to warrant that measure. In all such cases a revision would be made of the jumma, on the principle of leaving to the proprietors a net income of 10 per cent. thereon, exclusive of the charges of collection.

Regulation I.—1813.

Settlement of the Revenue.

Reg. I. 1813.

It was declared in this Regulation, that the unavoidable delays which had occurred in carrying into effect the intended arrangements declared in Regulation X. 1812, had rendered it inexpedient that a settlement should be formed for so long a period as three years; the Regulation therefore enacted, that a settlement should be made for one year, viz. 1220 Umlee, and on the expiration of that year a settlement for two years, viz. 1221 and 1222 Umlee; and that at the end of Umlee 1222, the Board of Revenue would conform to the provisions of Regulation X. 1812.

Regulation III.—1815.

Settlement of the Revenue.

Reg. III. 1815.

The settlements about to expire with the Umlee year 1222 were directed to continue for one year longer.

Regulation VI.—1816.

Settlement of the Revenue.

Reg. VI. 1816.

This Regulation declared that the information which had up to that time been acquired by the revenue authorities and by the Government respecting the limits and produce of the several estates comprised within the said district, was too imperfect, with reference to the rights either of the Government or of the proprietors, to afford grounds for the proper adjustment of an assessment which should remain fixed in perpetuity. It was therefore declared that the then existing settlement should continue in force until the expiration of the Umlee year 1226.

Regulation XIII.—1818.

Settlement of the Revenue of Cuttack.

Reg. XIII. 1818.

By this Regulation the settlement which was to expire with the Umlee year 1226, was ordered to continue in force until the expiration of 1229, with all proprietors who might choose to continue their engagements for that period. In the cases of zemindars not choosing to renew their engagements, or where no proprietors were forthcoming, the lands might be let to farm for a period not exceeding ten years, and the zemindars were to be entitled to their malikanah. Provision was likewise made in certain cases for the management of lands under the collector.

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(3.) Regulations for the Administration of Revenue Affairs. (Miscellaneous.)

PART THE THIRD.

LAND REVENUE—MISCELLANEOUS.

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MISCELLANEOUS RULES in the REVENUE DEPARTMENT.

REGULATION XXXIII.—1793.

Repair of Public Works—Advances of Money for Private Works.

Reg. XXXIII. 1793.

THIS Regulation enacted, in the prescribed form, certain rules passed in 1791, regarding embankments. The purposes of the enactment, as stated in the preamble, were two. 1st. To provide for the annual repair of certain embankments which, from their magnitude and their importance in preventing the ravages of extensive inundations, had been considered always public works, and had been kept in repair at the expense of Government. 2d. To encourage proprietors, farmers and cultivators of land to improve the embankments, reservoirs and watercourses in their several estates, and to construct new works of the same nature where necessary and practicable, in the hope of preserving in seasons of drought or inundation a sufficient portion of the crop for the subsistence of the body of the people, and consequently preventing the recurrence of the miseries which the country had so often suffered from famine. In conformity with these views, the Regulation enacted, that the superintendence of public works of irrigation should be vested in the collectors under the orders of the Board of Revenue, and that when necessary, engineer officers or other professional persons might be employed, under certain restrictive rules, for ascertaining the progress of the works, and for checking and controlling the expenditure. That advances of money might be made to proprietors, to under farmers or to ryots for works of embankment, irrigation, &c. on their own estates, on their presenting a specification of the intended work to the collector, for transmission to the Board of Revenue, and on the Board being satisfied of the utility of the work. The amount advanced was to be repaid with interest at twelve per cent. Persons not proprietors were to give security. Of proprietors the lands were to be held answerable for the repayment. Parties not fulfilling the terms of their engagement were to be liable to fine.

REGULATION VI.—1806.

For the more efficient Superintendence and Improvement of Embankments and Works of Irrigation.

Reg. VI. 1806.

THE objects of this Regulation were, first, to provide for the more efficient superintendence of the embankments maintained at the public expense; and secondly, to remedy evils arising from the neglect of zemindars to keep in proper order such embankments as were to be repaired at their own expense.

With a view to the first object, it was enacted that the superintendence of the public embankments and water-works in each district should be vested in a committee, to consist of the

the magistrate, the collector, the commercial resident, and such other public officers residing there, as the Governor-general in Council might appoint for that duty; the committee were to prepare annual estimates, which were to be submitted through the civil auditor, accompanied by his observations upon them, and for the sanction of Government. The accounts of expenditure were to be submitted to the civil auditor. A deputation of the committee were from time to time personally to examine the state of the embankments, and the execution of works in progress.

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(3.) Regulations for the Administration of Revenue Affairs. (Miscellaneous)

With regard to zemindars' embankments it was enacted, that no interference should take place so long as the requisite works should be effectually and properly performed, but in the event of neglect on the part of the zemindar, he was to be called upon by the committee to make the necessary repairs, and if he failed to obey their injunction, the requisite repairs were to be estimated and performed by the Government officers and charged to the zemindar.

It was forbidden to make cuts and water-courses through embankments, without the permission of the public officers and under special rules.*

Rules relative to the Offices of Canoongoe and Putwarry.

Office of Canoongoe.

It is stated in Mr. Harington's Analysis of the Bengal Regulations, that the abolition of the office of canoongoe in the provinces of Bengal, Bahar and Orissa, had been declared to be expedient by the Marquis of Cornwallis, in a minute recorded by him on the following grounds:—that the "public assessment on the lands having been fixed," (by the Regulations of 1793,) "its details stood recorded both in the landholders' engagements and in the records of the public department; that the rights of landholders and cultivators of the soil, whether founded on ancient custom or on the Regulations of the British Government, had been reduced to writing, and that canoongoes were no longer necessary to explain the former, and were wholly unacquainted with the latter; that the courts of justice would have their codes of Regulations to guide them in their decisions respecting the rights and property of the people; that suits regarding the revenue would be decided according to subsisting engagements; and that if any local custom were required to be ascertained, better evidence regarding it would always be obtainable from inhabitants of the district of a respectable character, than could be procured from the mofussil canoongoes, whose official attestations and declarations had long since fallen into contempt and disregard in the eyes of the people, from having been invariably made the cloak to every species of fraud and abuse."

Vol. 2, page 145.

In conformity with the principles of the foregoing quotation, the office of canoongoe, both sudder (or chief) and mofussil (or district), was abolished in the Lower provinces; and it was directed by Regulation VIII. of 1800, that the records of the former should be transferred to the custody of the Board of Revenue, and those of the latter to the collectors.

By Regulation IV. 1808, it was declared that the office of canoongoe, having been found of great utility under the former government of the conquered and ceded provinces, and being calculated to render much public benefit in those provinces, and in the province of Benares, under proper rules and restrictions, it was resolved to establish the office in those countries, and that two canoongoes should be appointed in each pergunnah thereof. The selection was to be made from the number of former canoongoes, subject to the approbation of the superior Board, by whose order only they were to be removable; the office was declared not hereditary, though, in all practicable cases, collectors were to nominate for the succession the best qualified persons in the family of the preceding occupant. Canoongoes were to be paid by salary, and the revenues of the official lands formerly held by them were declared liable to resumption by the Government. The duties of the canoongoes were declared to be, to keep registers of the collections of the revenue, of lands under rent-free tenures, of pottahs granted by the landholders to their under tenants, of permanent or temporary transfers of estates, of the produce and rent of villages, estates and pergunnahs, and of their rules and customs; to keep lists of the village accountants, to assist and record measurements of land, to report the death of payers of revenue, and to keep registers of successors of land.

Reg. IV. 1808. Ceded and Conquered Provinces and Benares.

The provisions of the foregoing Regulation were subsequently extended to the several districts of Bahar and Cuttack, and to the 24 pergunnahs.

1816.—II. V.
1817.—II. XII.
1818.—I.

By Regulation I. 1819, the appointment of canoongoes was ordered throughout the province of Bengal, to be made in the same manner and for the performance of the same duties as those above specified, with power, however, reserved to the Governor-general in Council to suspend the operation of those rules in any particular district, and with authority likewise to the Board of Revenue to make any alterations in the special duties of canoongoes as local circumstances should suggest.

Reg. I. 1819.

Regulation

* By Regulation XI. 1829, the appointment of Committees of Embankments was abolished, and it was left to the Governor-general in Council to make provision for the discharge of the duties prescribed in this Regulation by such officers as he might see fit to appoint for that purpose.

Reg. XI. 1829.

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(3.) Regulations for the Administration of Revenue Affairs. (Miscellaneous.)

Regulation XIII.—1825.

Canoongoes.

It had been enacted by the Regulations which re-established the office of canoongoe in the Ceded and Conquered Provinces,* in parts of Bahar† and in Cuttack,‡ that those officers should be remunerated by salaries in lieu of all other claims, and that the official lands held by them should be liable to be resumed by Government, whether the holders should be continued in the office or be discharged from the public service.

* *See* Reg. IV. 1828.
† *See* Reg. II. 1816.
‡ *See* Reg. V. 1816.

It appears from the preamble to this Regulation, that various resumptions of such lands had taken place, and the parties to whom the zemindary§ interest in the same appeared to belong had been admitted to engage for the Government revenue. The Governor-general in Council had since deemed it improper wholly to deprive the canoongoes or their representatives of the advantages formerly derived from such lands, and enjoyed by them for a long course of years. It had therefore been resolved to replace those persons in possession of such lands, and to make a settlement with them for a payment equal to half of the annual produce, according to the rates of similar land in the same district.

With a view to the equitable adjustment of such claims, in cases where the lakhiraj tenure and the right of property in the land were vested in distinct parties, it was declared competent to the Governor-general in Council to continue such official holders in possession, subject to such assessment as he should think it proper to direct; and the persons possessing the proprietary right in such mehals were declared not entitled to any profit beyond what they had enjoyed before the resumption, or what they would have been entitled to receive if the Government had confirmed the tenure in perpetuity free of assessment. Proprietors who had received malikanah during the existence of the lakhiraj tenure were to continue to receive the same.

The official tenures referred to in this Regulation were declared hereditary and transferrible. In the event of their escheating to Government, an engagement would be entered into with the persons possessing the proprietary right in the lands.

The same principle was extended to the cases of other persons whose lakhiraj tenures had been subjected to assessment under the provisions of Regulation XIX. 1793, but whom it might appear equitable to restore to possession, at an assessment not exceeding a moiety of the annual net produce. The principle was likewise extended to lakhiraj tenures under badshahi grants.

Regulation XII.—1817.

Office of Putwarry.

* Reg. XXVII. 1795.
† Reg. XXIX. 1803.

The general duties of the officers denominated putwarries or village revenue registrars and accountants, were set forth in Regulation VIII. 1793; and those rules were successively extended to Benares* and Oude.†

Reg. XII. 1817.

The preamble to Regulation XII. of 1817, declared that the previous Regulations regarding the office of putwarry had been found in many respects defective, and that great difficulties and delays had consequently been experienced in the adjustment of the revenue, in the investigation of summary and other suits regarding rents or boundaries, and in the execution of decrees respecting possession and property in the land. The reform of the office, therefore, appeared to be an object of the highest importance; but as the co-operation of the canoongoes appeared necessary to give full effect to the proposed measures, it had been found advisable to confine the operation of the rules about to be enacted to those districts where the office of canoongoe had been or was about to be revived.

The present Regulation enacted that every village should have a separate putwarry, and that every zemindar should report the names of the putwarries within his estate, and that collectors should prepare and keep registers of the putwarries. Special permission might be given by the Board of Revenue for a village to have more than one putwarry, or for one putwarry to keep the accounts of more than one village; the nomination to the office was to be in the zemindar, subject to objection on the part of the collector, on which the superior Board was to determine. Zemindars failing to appoint were declared liable to a daily fine until they had nominated. They were not to remove putwarries without the sanction of the collector, on pain of being fined. On the petition of village putteedars or ryots, the collector might, if he saw fit, require the zemindar to remove a putwarry. The duties of the putwarries were declared to be, to keep the customary village registers and accounts, and such others as the revenue controlling authorities might direct, and to deliver copies of such accounts half-yearly to the canoongoes, and to perform all other customary duties. The collectors were to prepare accounts of the mode in which the several putwarries were paid, whether in money, grain or land; and it was declared competent to the revenue controlling authority, with the sanction of Government, to alter such rate or mode of payment. Power was given to the collectors to compel the payment of the customary dues, if withheld from the putwarry. Such complaints were to be decided according to local usage, to be certified by the pergunnah canoongoe. Collectors were declared competent to summon any putwarries of their districts, whose attendance might be necessary on any matter connected with the duties of their office,

to

§ The interest here referred to appears to be that of property in the soil, not in the revenue; but the zemindar under the permanent settlements wa the proprietor of the revenue, and in that sense the zemindary interest would be that possessed by the canoongoe.

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to require them to produce all accounts, and to examine them on oath. If a putwarry refused to obey the collector's orders in these respects, the collector might cause him to be apprehended, and send him to the zillah judge, with a statement of his fault, and the judge was to commit him until the collector should apply for his release. Putwarries were declared alike bound, under a similar penalty, to give all necessary information to the courts when required. Putwarries were to attend officers who might be deputed by the collector to make local investigations. False evidence given on oath by putwarries was declared punishable as perjury, and the falsification of accounts by them as forgery. Their attendance might be required by collectors, as well as the attendance of all descriptions of native agents employed by the proprietors, when estates were to be sold or subdivided. The controlling revenue authorities were authorized to suspend the operation of this Regulation in particular places, such as estates consisting chiefly of hills and forests on the south-west frontier, and in very small mehals, of which the accounts were kept by the proprietors themselves. The courts of judicature were precluded from taking cognizance of the complaints of putwarries against persons for refusing to remunerate their labours, or of complaints against collectors on account of any decisions passed by them under this Regulation. Such decisions were to be reported by the collectors to the superintending revenue authorities, who might reverse or alter them at any time within six months after they had been passed. All fines levied under this Regulation were to be carried to the account of Government.

Reg. I. 1819.

The foregoing rules were extended to the Lower provinces of Bengal by Regulation I. 1819, which had also extended the rules regarding the office of canoongoe to those districts.

Tax on Pilgrims resorting to Juggernath and Allahabad.

Regulation VI.—1804.

Juggernath.

Reg. IV. 1806. (Rescinded by Reg. IV. of 1809.)

The continuance of the tax on pilgrims resorting to Juggernath, having been provided by Regulation XII. 1805, the present Regulation was enacted for the protection of the pilgrims from undue exactions on the part of the officers of the temple or of Government, and also for the preservation of order, tranquillity and regularity in the town of Juggernath Pooree and its dependencies, and for the trial of petty civil suits within those limits. The Regulation provided, that a tax should be levied on the part of the British Government, as had been done under the previous Mahratta Government, on pilgrims resorting to the temple. It was to be collected by a covenanted servant of the Company, with the official designation of Collector of the Tax on Pilgrims at Juggernath. The general superintendence of the collection, and the control of the officers employed therein, was vested in the Board of Revenue at Calcutta; the Regulation specified the rate of tax on the different classes of pilgrims, the persons entitled to receive fees, and the places where the tax was to be collected; and it was declared that any of the officers of the temple making demands beyond the regulated amount should be dismissed from employment. Certain persons were declared exempt from the payment of tax and fees.

The superintendence of the temple and its interior economy, the conduct and management of its affairs, and the entire control over the priests and servants attached to the idol and to the temple, were declared to be vested in an assembly of pundits or learned Brahmins, who were to be guided by the recorded rules and institutions of the temple, or by long and established usage. The pundits were to be appointed by the Governor-general in Council, on the recommendation of the collector through the Board of Revenue; and it was directed, that in the selection of the pundits, the collector should consult the opinion of the most respectable Hindoos, and otherwise ascertain their character and qualifications. Authority was given to the assembly of pundits to inflict a fine for misconduct on the persons subject to their control, not exceeding one month's salary, or to suspend them from office, reporting such punishments to the collector. Persons subject to the authority of the pundits, who should be guilty of criminal offences, were to be delivered over by them to the officers of police, to be proceeded against according to the general Regulations. The salaries of the pundits were to be paid out of the funds of the temple, and were to be fixed by the Governor-general in Council. The collector was empowered to fine to the amount of one month's pay, subject to an appeal to the Board of Revenue. The collector of the tax was declared to be vested with the powers of an assistant magistrate. The town of Juggernath Pooree and its environs was declared to be a police jurisdiction under the superintendence of one or more of certain officers of the temple, denominated Head Purchas, as the Governor-general in Council should direct. The Sudder Dewanny Adawlut were to appoint some of the head purchas to be commissioners for the trial of civil suits to a limited amount, and to prescribe rules for the conduct of the commissioners.

Reg. V. 1806. (Rescinded by Reg. IV. 1809.)

Some further rules were enacted by Regulation V. 1806, to prevent the evasion of the higher rate of tax by persons assuming a character inferior to that which belonged to them; and also to exempt a particular class of mendicants from the payment of the tax.

Reg. IV. 1809.

By Regulation IV. 1809, the rules enacted in the former Regulation having been found both inconvenient and inefficient, those two enactments were rescinded, and the following provisions were enacted in their stead. The superintendence of the temple and its interior economy, the conduct and management of its affairs, and the control over the priests, officers and servants attached to the temple, were vested in the Rajah of Khoordah, to be held during good conduct; and he was authorized to impose fines to the extent of one month's

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salary, and to remove from office any of the officers of the temple, with the exception of the three head purchas; those officers were to be appointed by the collector of Cuttack, and not to be removable without the sanction of Government; they were to execute their functions under the directions of the rajah. An account was to be rendered to the collector of all offerings and presents made to the idol; the collector of the tax was declared subject to the authority of the collector of Cuttack. The Regulation provided for the classification of the pilgrims and the amount of the tax which they were severally to pay; it prescribed the time during which they might be allowed to visit the temple, and the form of certificates to be given, stating the amount of payment and the privileges obtained thereby; and it provided that such certificates should be procurable, on payment of the fixed tax, at the offices of the secretaries to the Board of Commissioners and the Board of Revenue, and of the collectors of Cuttack and Ganjam respectively, as well as on the spot. The collector of the tax was authorized to punish darogahs who should unnecessarily delay pilgrims holding proper certificates, and the darogahs might for such offence be dismissed from office. Rules were prescribed as well for removing all impediments to the due access of the pilgrims to the temple, as to prevent their remaining beyond the time to which their license should extend. The collector might order the darogahs to expel persons who should continue to reside in the town after the expiration of their license, reporting to the magistrate on all such occasions what he might have done. Power was given to the collector to extend the period for persons remaining in the town after the expiration of their license to visit the temple. Persons resorting to the town of Juggernath Pooree for trade or any other purpose, except pilgrimage, were declared admissible into the town at all times of the year, except for twelve days from the commencement of the chariot feast, without payment of the tax. The collector was required to give every attention to the religious opinions of the Hindoos and the institutions of the temple, consistently with the general Regulations and the maintenance of peace and good order. He was not to suffer his ministerial officers to enter the precincts of the temple.

Reg. XI. 1810.

Some modifications of the rules of exemption, admitting in some instances and excluding in others, were enacted in Regulation XI. 1810.

Regulation XVIII.—1810.

Tax on Pilgrims to Allahabad.

Reg. XVIII. 1810.

This Regulation was enacted to establish specific rules for the collection of the duties on pilgrims resorting to the confluence of the rivers Ganges and Jumna, at Allahabad. The Regulation enacted the continuance of the tax previously collected, and specified the rate at which it was to be levied, and the mode of admission to the banks of the river. The collection of the duty was placed under the direction of the collector of revenue at Allahabad.

TABLE showing where each of the REGULATIONS in the preceding SUMMARY is to be found.

General Division and Sub-division.	Note to
REGULATIONS of 1793:	
1. Revenue - - - (A.)	
2. Revenue - - - (A.)	
3. Civil Judicial - - (A.)	
4. Civil Judicial - - (A.)	
5. Civil Judicial - - (B.)	
6. Civil Judicial - - (C.)	
7. Civil Judicial - - (E.)	
8. Revenue - - - (A.) / Revenue - - - (A.)	1. 1793
9. Criminal Judicial - (A.) (B.) (C.) and (D.)	
10. Revenue - - - (A.) / Revenue - - - (F.)	1. 1793
11. Revenue - - - (D.)	
12. Civil Judicial - - (A.)	
13. Civil Judicial - - (A.)	
14. Revenue - - - (B.)	
15. Civil Judicial - - (A.)	
16. Civil Judicial - - (A.)	
17. Revenue - - - (C.)	
18. Civil Judicial - - (A.)	
19. Revenue - - - (E.)	
20. Legislation.	
21. Revenue - - - (D.)	
22. Criminal Judicial (A.) / Criminal Judicial (E.)	9. 1793
23. Criminal Judicial - (E.)	
24. Revenue - - - (E.)	
25. Revenue - - - (D.)	
26. Revenue - - - (F.)	
27. Revenue - - - (A.)	
28. Civil Miscellaneous (B.)	
33. Revenue—Miscellaneous.	
36. Civil Judicial - - (A.)	
37. Revenue - - - (E.)	
38. Civil Miscellaneous - (A.) & (B.)	
39. Civil Judicial - - (A.)	
40. Civil Judicial - (F.) / Revenue - - - (C.)	35. 1795
41. Legislation.	
43. Revenue - - - (E.)	
44. Revenue - - - (A.)	
45. Revenue - - - (B.)	
46. Civil Judicial - - (A.)	
47. Civil Judicial - - (B.)	
48. Revenue - - - (D.)	
49. Civil Judicial - - (A.)	
50. Revenue - - - (F.)	

General Division and Sub-division.	Note to
REGULATIONS of 1794:	
3. Revenue - - - (B.)	
4. Revenue - - - (A.)	
5. Civil Judicial - - (B.)	5. 1793
7. Criminal Judicial (B.)	
8. Civil Judicial - (A.) / Revenue - - - (C.)	
REGULATIONS of 1795:	
1. Benares, Revenue Special Legislation - - - - (A.)	
2. Benares, Special Revenue (A.)	
4. Benares, Special Revenue (A.)	
6. Benares, Special Revenue (A.)	
7. Civil Judicial, Special - - - (A.)	
8. Civil Judicial, Special - - - (A.)	
9. Civil Judicial, Special - - - (A.)	
10. Civil Judicial, Special - - - (A.)	
15. Civil Judicial, Special - - - (A.)	
16. Criminal Judicial, Special - - - (A.)	
17. Criminal Judicial, Special - - - (A.)	
21. Criminal Judicial (F.)	
22. Civil Judicial, Special - - - (A.)	
27. Revenue, Special (A.)	
33. Civil Miscellaneous (B.)	
34. Revenue, Special - (A.)	
35. Civil Judicial - (F.) / Revenue - - - (C.) / Revenue - - - (C.)	40. 1793 / 17. 1793
36. Civil Judicial - - (A.)	
37. Civil Judicial - - (A.)	
38. Civil Judicial - - (G.)	
51. Revenue, Special (A.)	
56. Revenue - - - (E.)	
58. Revenue - - - (E.)	19. 1793

General Division and Sub-division.	Note to
REGULATIONS of 1796:	
1. Criminal Judicial, Special - - - (A.)	
2. Criminal Judicial (A.)	
3. Revenue - - - (F.)	
4. Civil Judicial - - (A.)	
5. Revenue - - - (B.)	
6. Criminal Judicial (D.)	
7. Revenue - - - (F.)	
8. Revenue - - - (C.)	35. 1795
9. Criminal Judicial (A.)	
10. Legislation.	
11. Criminal Judicial - (A.)	
12. Revenue - - - (B.)	
13. Civil Judicial - - (A.)	
REGULATIONS of 1797:	
2. Benares, Special - (A.)	17. 1795
3. Criminal Judicial (B.)	
4. Criminal Judicial - (B.) (D.) & (E.)	
5. Criminal Judicial (F.)	
6. Civil Judicial - - (G.) / Criminal Judicial - (E.)	
8. Civil Judicial - - (E.)	7. 1793
10. Civil Judicial - - (G.)	
12. Civil Judicial - - (B.)	
13. Criminal Judicial (A.)	
14. Criminal Judicial (D.)	
15. Revenue - - - (D.)	25. 1793
16. Civil Judicial - - (D.	
17. Criminal Judicial (D.)	
18. Civil Judicial - - (F.)	40. 1793
REGULATIONS of 1798:	
1. Civil Judicial - - (A.)	
2. Civil Judicial - - (A.)	
5. Civil Judicial - - (B.)	

(continued.)

TABLE showing where each of the REGULATIONS in the preceding SUMMARY is to be found—*continued.*

General Division and Sub-division.	Note to
REGULATIONS of 1799:	
4. Criminal Judicial - (F.)	
5. Civil Judicial - - (A.)	
7. Revenue - - - (B.)	
7. Revenue - - - (B.)	3. 1794
7. Revenue - - - (C.)	
7. Revenue - - - (F.)	10. 1793
8. Criminal Judicial - (D.)	
REGULATIONS of 1800:	
1. Civil Judicial - (A.)	
1. Revenue - - - (F.)	10. 1793
3. Civil Judicial - - (A.)	
7. Civil Judicial - - (G.)	
8. Revenue - - - (D.)	
8. Revenue - - - (D.)	48. 1793
10. Revenue - - - (D.)	11. 1793
REGULATIONS of 1801:	
1. Revenue - (B.) & (D.)	
1. Revenue - - - (A.)	8. 1793
1. Revenue - - - (B.)	5. 1812
2. Civil Judicial - (C.)	
2. Criminal Judicial (C.)	9. 1793
3. Civil Judicial - - (A.)	
8. Criminal Judicial (D.)	
REGULATIONS of 1802:	
3. Civil Judicial - - (A.)	
6. Criminal Judicial (F.)	
REGULATIONS of 1803:	
1. 2. 4. 5. 6. 7. 8. Oude, Special Judicial (B.)	
25. Special Revenue - (B.)	
27. Special Revenue - (B.)	
43. Civil Judicial - (G.)	
49. Civil Judicial (A.) & (F.)	
51. Oude, Special Judicial (B.)	
53. Criminal Judicial (D.)	
REGULATIONS of 1804:	
1. Revenue - - - (E.)	
4. Special Judicial - (C.)	
5. Civil Judicial, Miscellaneous (C.)	
9. Special Judicial - (B.)	
10. Criminal Judicial - (F.)	

eneral Division and Sub-division.	Note to
REGULATIONS of 1805:	
2. Civil Judicial - (A.)	
2. Revenue - - - (C.)	7. 1799
3. Criminal Judicial (D.)	
5. Revenue - - - (C.)	
5. Special Revenue (B.)	27. 1803
8. Special Judicial - (B.)	9. 1804
9. Special Revenue - (B.)	
10. Civil Judicial - - (C.)	
12. Special Revenue - (C.)	
13. Special Judicial - (C.)	
14. Special Judicial - (C.)	
15. Civil Judicial - - (F.)	
17. Revenue - - - (A.)	
18. Special Judicial - (A.)	
18. Criminal Judicial (E.)	
REGULATIONS of 1806:	
1. Criminal Judicial - (B.)	
2. Civil Judicial - - (A.)	
4. Revenue—Miscellaneous.	
5. Revenue—Miscellaneous.	
6. Revenue—Miscellaneous.	
7. Special Judicial, Local - - - (A.)	
8. Miscellaneous Judicial - - - (A.)	
10. Miscellaneous Judicial - - - (A.)	
11. Criminal Judicial (E.)	
13. Criminal Judicial (D.)	
14. Special Local Judicial - - - (B.)	9. 1804
15. Criminal Judicial (A.)	
21. Special Revenue - (B.)	21. 1803
22. Revenue - - - (E.)	24. 1793
REGULATIONS of 1807:	
1. Civil Judicial - - (B.)	
2. Criminal Judicial (D.)	
6. Revenue - - - (D.)	
8. Criminal Judicial (D.)	13. 1806
9. Criminal Judicial - (A.) (B.) & (E.)	
10. Special Revenue - (B.) & (C.)	
12. Criminal Judicial (E.)	
15. Civil Judicial - - (C.)	

General Division and Sub-division.	Note to
REGULATIONS of 1808:	
4. Revenue—Miscellaneous.	
5. Special Revenue - (B.)	27. 1803
6. Special Revenue - (C.)	
8. Criminal Judicial (D.)	
9. Criminal Judicial - (A.) (B.) (& E.)	
10. Criminal Judicial (E.)	
11. Revenue - - - (E.)	
13. Civil Judicial (A.) & (B.)	
REGULATIONS of 1809:	
1. Special Revenue - (B.)	
3. Criminal Judicial (F.)	
4. Revenue—Miscellaneous.	
5. Criminal Judicial (A.)	
7. Criminal Judicial (D.)	13. 1806
8. Miscellaneous Judicial - - - (C.)	
REGULATIONS of 1810:	
1. Criminal Judicial - (B.)	
4. Special Revenue - (C.)	
5. Revenue - - - (D.)	
6. Criminal Judicial (E.)	
8. Criminal Judicial (E.)	
11. Revenue—Miscellaneous.	
12. Criminal Judicial (D.)	13. 1806
13. Civil Judicial (B.) & (C.)	
13. Civil Judicial - (F.)	23. 1814
14. Criminal Judicial (D.)	
16. Criminal Judicial - (A.) & (E.)	
18. Revenue—Miscellaneous.	
19. Revenue - - - (E.)	
20. Criminal Judicial - (F.)	3. 1809

TABLE showing where each of the REGULATIONS in the preceding SUMMARY is to be found—*continued.*

General Division and Sub-division.	Note to
REGULATIONS of 1811:	
1. Criminal Judicial (A.) (D.) & (E.)	
2. Revenue - - (E.)	
6. Revenue - - (A.)	27. 1793
7. Criminal Judicial (E.)	
8. Special Revenue (B.) (A.)	23. 1817
9. Special Revenue - (B.)	
10. Criminal Judicial (F.)	
11. Revenue - - (D.)	25. 1793
12. Civil Judicial - (C.)	
13. Revenue - - (A.)	
14. Criminal Judicial (D.)	
REGULATIONS of 1812:	
3. Criminal Judicial (A.) & (E.)	
3. Revenue - - (C.)	7. 1799
4. Civil Judicial - (A.)	
5. Revenue (A.) (B.) & (C.)	
9. Special Revenue - (B.)	
10. Special Revenue (B.) & (C.)	
11. Criminal Judicial - (F.)	
16. Special Judicial - (A.)	7. 1806
18. Revenue - (A.) & (D.)	5. 1812
20. Miscellaneous Judicial - (B.)	
21. Criminal Judicial - (E.)	
REGULATIONS of 1813:	
1. Special Revenue - (C.)	
2. Criminal Judicial (D.)	
2. Miscellaneous Judicial - (C.)	5. 1804
3. Civil Judicial - (A.)	
5. Special Revenue - (B.)	8. 1811
6. Civil Judicial - (A.)	
8. Criminal Judicial - (A.)	5. 1809
9. Criminal Judicial - (D.)	
11. Revenue - - (E.)	
13. Criminal Judicial - (E.)	
15. Revenue - - (A.)	
17. Miscellaneous Judicial - (A.)	

General Division and Sub-division.	Note to
REGULATIONS of 1814:	
1. Civil Judicial - (G.)	
2. Miscellaneous Judicial - (A.)	
3. Criminal Judicial - (E.)	13. 1813
5. Civil Judicial - (B.)	
5. Criminal Judicial (B.)	
8. Criminal Judicial - (E.)	
9. Criminal Judicial - (E.)	13. 1813
11. Criminal Judicial - (D.)	
12. Revenue - - (E.)	2. 1811
13. Criminal Judicial - (E.)	
15. Criminal Judicial - (D.)	
16. Criminal Judicial - (E.)	13. 1813
18. Revenue - - (B.)	
19. Revenue - - (D.)	
21. Miscellaneous Judicial - (A.)	
23. Civil Judicial - (F.)	
24. Civil Judicial - (A.)	
24. Revenue - - (C.)	
25. Civil Judicial (B.) & (C.)	
25. Criminal Judicial (B.)	
26. Civil Judicial - (A.)	
27. Civil Judicial - (E.)	
28. Civil Judicial - (A.)	
29. Revenue - - (A.)	
REGULATIONS of 1815:	
1. Special Revenue - (B.)	
2. Civil Judicial - (A.)	24. 1814
3. Special Revenue - (C.)	
REGULATIONS of 1816:	
1. Special Revenue - (A.)	
4. Civil Judicial - (A.)	
6. Special Revenue - (C.)	
8. Civil Judicial - (A.)	
9. Special Revenue - (A.)	
11. Special Local Judicial - (C.)	
14. Criminal Judicial (A.)	
15. Civil Judicial - (A.)	
16. Special Revenue - (B.)	
17. Criminal Judicial - (E.)	
22. Criminal Judicial - (E.)	

General Division and Sub-division.	Note to
REGULATIONS of 1817:	
1. Special Revenue - (A.)	1. 1816
3. Civil Judicial - (G.)	
4. Special Local Judicial - (B.)	
8. Miscellaneous Judicial - (A.)	
10. Special Local Judicial - (B.)	
11. Special Revenue - (B.)	8. 1811
12. Revenue—Miscellaneous.	
17. Criminal Judicial (D.)	
18. Civil Judicial - (A.)	
19. Civil Judicial (A.) & (F.)	
19. Civil Judicial - (A.)	26. 1814
19. Revenue - - (C.)	
20. Criminal Judicial (E.)	
22. Special Local Judicial - (C.)	
23. Special Revenue - (A.)	
24. Revenue - - (A.)	13. 1811
Special Revenue - (A.)	1. 1816
REGULATIONS of 1818:	
2. Special Local Judicial - (B.)	
2. Special Revenue (B.)	
3. Criminal Judicial (F.)	
4. Special Local Judicial - (B.)	
5. Special Local Judicial - (C.)	
6. Criminal Judicial (A.) & (B.)	
8. Criminal Judicial (A.)	
9. Special Revenue - (B.)	
12. Criminal Judicial (A.) & (E.)	
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REGULATIONS of 1819:	
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2. Revenue - - (E.)	
3. Criminal Judicial - (A.)	8. 1818
6. Criminal Judicial - (E.)	
7. Criminal Judicial - (A.)	
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8. Revenue - - (A.)	5. 1812
9. Civil Judicial - (A.)	
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1. Revenue - - (C.)	8. 1819
3. Criminal Judicial (A.)	
4. Criminal Judicial (A.) & (B.)	
7. Criminal Judicial (D.)	

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1. Special Revenue - (B.)	
2. Civil Judicial (A.) & (F.) / Revenue - - (C.)	5. 1812
3. Criminal Judicial (A.) & (E.)	
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1. Criminal Judicial - (A.)	
3. Revenue - - (A.)	
4. Criminal Judicial - (D.)	
5. Criminal Judicial - (E.)	
6. Revenue - - (F.)	
7. Special Revenue (B.) / Criminal Judicial (A.)	15. 1824
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4. Criminal Judicial - (B.)	
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7. Miscellaneous Judicial - (A.)	
REGULATIONS of 1824:	
1. Revenue - - (A.)	
3. Civil Judicial (A.) & (F.)	
4. Civil Judicial - (A.)	36. 1793
5. Miscellaneous Judicial - (B.)	6. 1823
6. Criminal Judicial - (A.)	
9. Special - (B.) / Revenue - (B.)	7. 1822
10. Criminal Judicial - (A.)	
11. Civil Judicial - (A.)	
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14. Revenue - - (C.)	
15. Criminal Judicial - (A.)	
16. Civil Judicial - (G.)	

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REGULATIONS of 1825:	
2. Civil Judicial - (A.)	
3. Criminal Judicial - (D.)	
4. Criminal Judicial - (A.)	
5. Civil Judicial - (A.)	
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7. Revenue - - (B.)	
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9. Revenue - (A.) & (E.) / Revenue - - (A.) / Special Revenue - (B.)	27. 1793 / 7. 1822
11. Revenue - - (A.)	
12. Criminal Judicial - (D.)	
13. Revenue—Miscellaneous	4. 1808
14. Revenue - - (E.) / Revenue - - (E.)	2. 1819
16. Criminal Judicial - (B.)	
20. Criminal Judicial - (F.)	
21. Special Local Judicial - (B.)	4. 1817
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1. Civil Judicial - (B.)	5. 1814
2. Special Revenue - (B.)	
3. Civil Judicial - (A.)	4. 1816
11. Civil Judicial (A.) & (E.)	
12. Civil Judicial - (G.)	
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1. Criminal Judicial Special - - - (A.)	
3. Civil Judicial - (A.)	13. 1793
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1. Criminal Judicial - (A.)	
3. Revenue - - (E.)	
4. Criminal Judicial (A.) / Special Revenue (B.)	15. 1824 / 7. 1822
5. Criminal Judicial - (F.)	3. 1809
6. Criminal Judicial - (D.)	
7. Special Judicial - (A.) / Special Revenue (A.)	
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1. Revenue - - (A.) / Criminal Judicial (B.)	
2. Criminal Judicial - (B.)	
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4. Revenue - - (E.)	3. 1828
5. Special Local Judicial - (B.)	4. 1817
6. Criminal Judicial (A.)	6. 1824
7. Civil Judicial - (A.) / Criminal Judicial (B.)	
8. Criminal Judicial (A.)	5. 1809
10. Civil Judicial - (G.)	
11. Revenue—Miscellaneous	6. 1806
12. Criminal Judicial (D.)	
13. Civil Judicial - (A.)	
17. Criminal Judicial - (F.)	
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4. Criminal Judicial - (B.)	1. 1829
5. Miscellaneous Judicial - B.)	
6. Civil Judicial - (A.)	4. 1816
7. Revenue - - (B.)	5. 1812
8. Criminal Judicial (A.)	
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1. Bengal.

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1. Generally.
2. European.
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I. *Generally.*

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IV. *Papers laid before the Committee*—continued.

1. Generally—*continued.*

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3. Bengal.

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2. Madras.

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CRIMINAL LAW.

I. *Generally.*

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I. *Generally.*

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Statement of crimes ascertained to have been committed in the Patna division in 1813, the number of persons supposed to have been concerned, the number apprehended and committed for trial, and computed amount of property stolen and recovered, *App.* p. 562, 563——The like in the year 1828, *App.* p. 564, 565——Statement of the number of persons committed for trial and convicted before the courts of circuit, and the number apprehended and punished by the magistrates and their assistants for minor offences in the Patna division in the year 1828, *App.* p. 568, 569——Comparative statement of the number of prisoners in the gaols in the Patna division, on 31st December 1827 and 1828, *App.* p. 580, 581——Number of prisoners in the gaols in the Patna division on 31st December 1828, and causes of their confinement, *App.* p. 582, 583——Prisoners employed on private labour, agreeably to the orders of the Sudder Nizamut Adawlut in the Patna division, *App.* p. 584.

Patna Provincial Court. Statement of regular causes, original suits and appeals, depending, admitted and disposed of therein since the court has consisted of four judges, viz. 1815–1829, *App.* p. 553.

PATRONAGE.

I. *In England.*
II. *In India.*

I. *In England.*

Advantage of Mr. Wynn's plan in giving appointments to public schools and universities, *Mackenzie*, 175–177.

II. *In India.*

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Pauper Suits. Regulation XLVI. 1793, Relative to admission of paupers to sue in the civil courts, *App.* p. 647——Regulation III. 1802, Relative to security for appearance of defendants in pauper suits, *App.* p. 650——Regulation XXVIII, 1814, Consolidating and amending the rules concerning pauper suits, *App.* p. 654.

Peace. See *Recognizances.*

Penal Correction. Nature of penal correction (Tazeer) inflicted under the third class of judicial retribution, according to the Mahomedan law, *App.* p. 701.

Penalties. Improved state of the police has enabled the Bengal government to mitigate extent of penalties formerly annexed to serious crimes, and for more accurately defining them, *App.* p. 274. par. 252, 253——Evidence necessary to the infliction of the penalties under the first head of judicial retribution according to the Mahomedan law, *App.* p. 699——Specific penalties (Hudd) attached to certain offences according to the Mahomedan law, *App.* p. 699.

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Pensions. Entitling native judges to retiring pensions might ensure honesty, *Oldham* 574——Confirmation of hereditary pensions should be by government; local commissioners should decide on life pensions when amount within that which leaves the cognizance to the board, and the board should decide upon those of a larger amount; both should submit quarterly statements of decisions, *App.* p. 388.

Peons. Method of paying peons and ameens, *Mackenzie* 428, 429.

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I. *Generally.*

II. *Papers laid before the Committee.*

I. *Generally.*

Punishment for, *Clarke* 94, 95——Which does not act upon the natives as a stain in society, *Clarke* 96, 97——Manner in which the crime is expiated by the Mahomedan law, *Bayley* 915. *App.* p. 274. par. 257.

II. *Papers laid before the Committee.*

Prevalence thereof, and best method of preventing it, *App.* p. 220——Agreement by the court with Sir John Malcolm and Mr. Newnham, in objecting to attempt to assimilate the provisions of Bombay Regulations to those of the English law, or to consult the advocate-general on the propriety of providing for its definition and punishment by express enactment; law providing for punishment of instigation to perjury, renders any separate enactment for the punishment of subornation of perjury unnecessary; but the subject will be more properly brought to a determination by the Bombay government, after reference to the judges of the Sudder Adawlut, *App.* p. 231. par. 35–37.

Regulations by which the punishment of perjury has been limited and the powers to be respectively exercised by courts of circuit and Nizamut Adawlut more clearly defined, *App.* p. 273. par. 242——Statement of the number of persons convicted of perjury before the Nizamut Adawlut in Bengal, and of sentences passed by that court in each year, 1816–1827, *App.* p. 574, 575——Regulation III. 1801, Relative to committals for perjury before the civil courts, *App.* p. 650——Regulation XVII. 1797, Prescribing specific punishments by imprisonment, corporeal punishment, and public exposure for the crime of perjury, which by the Mahomedan law was declared punishable according to the discretion of the judge, *App.* p. 720——Regulation II. 1807, for the more effectual punishment of perjury; definition of perjury; method of punishment, *App.* p. 723.

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Person. Comparative statement of sentences for offences against property and against the person, and other crimes, passed by the courts of circuit in Bengal, 1816–1826, *Bayley*, p. 98. *App.* p. 207, 208——Comparative statement of sentences for offences against property and against the person, and other crimes passed by the magistrates in the Lower and Western Provinces of Bengal, 1826 and 1827, *Bayley*, p. 99. *App.* p. 207, 208.

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Petitions, connected with Revenue management. No change should be made in the management of villages, excepting the necessary transfers on deaths and the like, or when parties agree, without a report to the Board; order of local commissioner should give immediate possession when within cognizance of revenue authorities, *App.* p. 388.

Petty Offences. By what description of magistrates they should be tried; eagerness with which the most trifling abuse, or most trivial blow could be construed into an assault, and be the cause of an appeal to judicial interference, *App.* p. 270. par. 217–219——Inconvenience not much felt by want of speedy redress for abusive language, calumny and inconsiderable assaults, *App.* p. 271. par. 220——Manner in which they are disposed of by the sudder ameens, *App.* p. 271. par. 221.

Pilgrim Taxes. Regulations IV. and V. 1806; IV. 1809, and XI. 1810, For the protection of pilgrims resorting to Juggernath from undue exactions on the part of officers of the temple or of Government; provision for the manner of levying the tax; general superintendence of the collection and control of officers employed therein vested in the Board of Revenue at Calcutta; provision for preventing the evasion of a higher rate of tax by persons assuming a character inferior to that belonging to them; also to exempt a particular class of mendicants from the payment of the tax; above Regulations rescinded and the superintendence of the Temple and its interior economy vested in the rajah of Khoordah, to be held during good conduct; extent of fines authorized to be

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imposed by him and of his powers; account of offerings and presents to be rendered to the collector; the collector of the tax to be subject to the collector of Cuttack; provision for the classification of pilgrims and amount of tax they were severally to pay; powers of the collectors over pilgrims with regard to remaining in the town after expiration of their license, *App.* p. 811, 812——Regulation XVIII. 1810, Establishing rules previously enacted for collection of the duties on pilgrims resorting to the confluence of the rivers Ganges and Jumna, at Allahabad; provision for continuance of the tax previously collected, and specifying rate at which it was to be levied, and the mode of admission to the banks of the river; collection of duty placed under the direction of the collector of revenue at Allahabad, *App.* p. 812.

Plaintiffs. How far plaintiff can sue for less than his full demand, and recover the remainder afterwards, *Mackenzie* 448–455.

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PLEADERS, NATIVE.

I. *Generally.*

II. *Papers laid before the Committee.*

I. *Generally.*

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Progress of institutions established for the better education of natives, and the operation of Regulation XI. of 1826, will gradually fill civil courts with pleaders better qualified than at present; extract from report of the Sudder Dewanny Adawlut relative to them; facility given to the administration of justice by their constant attendance; instances of misconduct among them not frequent; evils of their discontinuance, *App.* p. 247. par. 105, 106——Fees of pleaders as they affect usual costs of suits are not oppressive, or such as discourage the prosecution of just claims; it must be proportionate with the cause of action, and may be dispensed with in case of poverty; observations as to deposits of pleader's fees under certain regulations, *App.* p. 248. par. 106.

Regulation VII. 1793, and VIII. 1797, Upon the appointment and duties of vakeels or native pleaders in the civil courts, *App.* p. 664——Regulation XXVII. 1814, and IX. 1831, Consolidating and amending the rules regarding vakeels, *App.* p. 665——Regulation XI. 1826, Qualification for admission to practise as vakeel, *App.* p. 665—— Advantage of men of all classes being admitted to plead in the several courts, from the circumstance that only individuals of superior ability and knowledge would practise as professional pleaders, and who would have the strongest inducement to exert themselves in the advocacy of the causes undertaken by them, *Ross, App.* p. 465. par. 48.

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PLEADINGS.

I. *Generally.*

II. *Papers laid before the Committee.*

I. *Generally.*

Pleadings and motions in the native courts are in writing, *Clarke* 55; *Oldham* 615——Nature of the pleadings and judges' decrees, *Clarke* 62–66——Forms of native courts are simple, *Mackenzie* 229——There are no pleadings in criminal cases, *Melville* 627, 628——Disadvantages of the present method of preparing them, *Mill* 1046——Advantages of oral over written pleadings, *Mill* 1058, 1059, 1062, 1063.

II. *Papers laid before the Committee.*

Forms of pleading, proceeding and process, were defined by Regulation XXVI. of 1814, and are as simple and summary as is consistent with the ends of substantial justice; description of pleadings that have been dispensed with, *App.* p. 247. par. 99–102.

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POLICE.

I. *Generally.*

II. *Papers laid before the Committee.*

1. Relating to Bengal.

2. Relating to Madras.

3. Relating to Bombay.

I. *Generally.*

Situations in, not sufficiently remunerated, *Oldham* 537——Not beneficial to employ natives to a greater extent in the police, *Oldham* 537, 588——Improvements latterly in the management thereof, *Bayley* 915——Extent and description of police jurisdictions in Bengal, *Bayley*, p. 92.

II. *Papers laid before the Committee.*

1. Relating to Bengal.

Letter from the Bengal Government to the Court of Directors, dated 22d February 1827, relative to the police and grants of land and allowances for their support, *App.* p. 255——Objections to their being vested with power to hold proceedings in petty criminal cases, and to inflict punishment by fine, imprisonment and flogging, as sanctioned by Regulation IV. of 1821, of the Madras code, *App.* p. 280. par. 15——Advantages of the high state of efficiency of the police to what it was 20 years ago, and means by which it has been attained, *Bayley*, *App.* p. 453——Establishment of police proposed to be maintained under witness's arrangement for the administration of criminal justice, *Ross*, *App.* p. 468. par. 64.

Regulation XI. 1831, Relative to the police of the Ceded and Conquered Provinces, *App.* p. 683——Regulation XIII. 1805, Relative to the system of police for Cuttack, *App.* p. 684——Regulations for the establishment of and maintenance of an effective police, *App.* p. 728——Regulation XXII. 1793, Abolition of zemindary police and establishment of the darogah system, *App.* p. 728——Regulation XXIII. 1793, Establishment of police tax, *App.* p. 729——Regulation IV. 1797, Inquests by darogahs, *App.* p. 729——Regulation VI. 1797, Abolition of the police tax, *App.* p. 729——Regulation XVIII. 1805, Zemindary police brought into operation, *App.* p. 729——Regulation XI. 1806; VI. 1825, Assistance to be afforded to troops on march, *App.* p. 730——Regulation IX. 1807, Duties and powers of native officers of police, *App.* p. 730——Regulation XII. 1807, Appointment of ameens of police, *App.* p. 731——Regulation IX. 1808, Proclamation of rewards for apprehension of decoits, *App.* p. 731——Regulation X. 1808, Superintendants of police for three divisions established at Calcutta, *App.* p. 732——Regulation VI. 1810, Penalties for zemindars not co-operating in the suppression of gang robbery, *App.* p. 732.

Regulation VIII. 1810, Superintendants of police for the upper provinces established, *App.* p. 732——Regulation XVI. 1810, Proclamation of rewards for apprehension of decoits, *App.* p. 732——Regulation I. 1811, Rules for the discovery and apprehension of receivers of stolen goods, *App.* p. 732——Regulation VII. 1811, Powers of police darogahs, *App.* p. 733——Regulation III. 1812, Native police, *App.* p. 733——Regulation XXI. 1812, Licenses to certain trades, *App.* p. 733——Regulation XIII. 1813; III. IX. and XVI. 1814, City and police assessment, *App.* p. 733——Regulation VIII. 1814, Inhabitants in general to assist in keeping the peace, *App.* p. 734——Regulation XIII. 1814, The office of Cutwal abolished, *App.* p. 734——Regulation XVII. 1816, Appointment and duties of native police, *App.* p. 734——Regulation XXII. 1816, Appointment and duties of the native town police, *App.* p. 734——Regulation XX. 1817, Consolidated and amended general police regulation, *App.* p. 735——Regulation XII. 1818, Suspension of arrest, *App.* p. 736——Regulation VI. 1819, Police ferries, *App.* p. 736——Regulation III. 1821, Arrest of suspicious gangs, *App.* p. 737——Regulation V. 1822, Apprehension of proclaimed decoits, *App.* p. 737.

2. Relating to Madras.

Criminal charges before, and disposal of prisoners, *App.* p. 216–218——Statement showing the number of persons apprehended, released and punished, together with the nature of all punishments inflicted by the several heads of district police, 1825–1827, *App.* p. 344, 345——Abstract of the proceedings of the criminal courts and police in the year 1817; also, the extent and population (in 1822) of the districts, *App.* p. 598——A similar statement for 1828, *App.* p. 600——Statement of the proceedings of the village police, district police, and magistracy of each zillah, 1st January to 30th June 1829, with reference to petty offences, *App.* p. 612——A similar statement, distinguishing the offences, but not the districts, *App.* p. 614——Observations upon the mode of their exercising their duties, *App.* p. 219; *App.* p. 281. par. 16–19.

Letter from J. M. Macleod, secretary to Government, Madras, to H. Shakespear, esq. secretary to Government, Fort William, enclosing letter from register to the court of Sudder Adawlut, Madras, explaining causes of delay in preparing report upon the practical operation of the changes made in the system of administration of justice and police, *App.* p. 281——Abuse of power by district police officers in regard to punishments inflicted by them; gross falsification of dates made by them in order to conceal their violation of regulations in respect to the time allowed for detaining an accused person in custody before forwarding him to the criminal judge, *App.* p. 293. par. 64–66——

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II. *Papers laid before the Committee*—continued.

2. Relating to Madras—*continued.*

Extract of report from Sudder Adawlut showing how far the rules contained in Regulation II. of 1816, or in any subsequent regulation for the establishment of a general system of police throughout the territories subject to the government of Fort St. George, have been found efficient and successful in accomplishing the objects intended by them, *App.* p. 295.

Extract from minutes of consultation Madras, in answer to observations by Sudder Adawlut relative to the police, *App.* p. 348, 349——Letter from Court of Directors to Madras Government, dated 11th April 1826, relative to the conduct and control of the police, *App.* p. 349 ——Answer of the Madras Government, dated 27th April 1827, *App.* p. 361——Animadversions by Court of Directors on cruelty of police officers, particularly in extorting confessions by torture, *App.* p. 354–357. par. 26–28——Answer by the Madras Government upon that subject, *App.* p. 362. par. 8——Minute by Sir Thomas Munro upon that subject, extracted from Madras judicial consultations of 30th January 1827, *App.* p. 363–370. par. 13——Minute by J. H. D. Ogilvie, esq. upon the same subject, *App.* p. 370 ——Resolutions of Government on the same subject, *App.* p. 372–382.

3. Relating to Bombay.

Magisterial duties combined with the territorial, and there are good reasons for their continuing to be so, from the collector alone possessing information of the state of the districts under his authority, and the character and condition of their inhabitants; many improvements have been made and are in progress in the police administration; restoration of the efficiency of the native police in the Southern Concan, and benefit likely to be derived in the Northern Concan from effecting the same object; difficulty of establishing a good police in districts inhabited by predatory tribes, which have been increased, by extending the laws in their minutest forms and processes to districts and communities, to whose condition, character and habits they are not adapted, and whom they often furnish with increased means of evading punishment; statement of the best means of establishing a good police through the provinces, subject to the Bengal presidency, *Malcolm, App.* p. 520.

See also *Benares. Judges, European. Natives. Superintendant of Police.*

Poonah Gaol. It is constructed on the most approved plan; care taken with regard to the health of the prisoners, and in giving work to those confined therein, *Malcolm, App.* p. 520.

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Population. Of England and Wales; Ireland; Bengal Provinces; France; Austria, *Evid.* p. 103——Spain, *Evid.* p. 104——Benares, *App.* p. 206——Ceded and Conquered Provinces, *App.* p. 206——Masulipatam, *App.* p. 218——Bombay Old Provinces, *App.* p. 234——Deccan, *App.* p. 234——Certain provinces subject to the Bengal regulations, *App.* p. 275. par. 264——Certain former zillahs and united zillahs under the Madras Presidency, *App.* p. 350.

Possession. Disputes regarding the right of possession in land-crops or watercourses, adds to the number of suits in courts, *App.* p. 236. par. 8.——Contested claims to possession of lands, crops, wells and watercourses, has been transferred to magistrates, leaving parties, if dissatisfied with their award, to institute a civil suit, *App.* p. 272. par. 237——Regulation XLIX. 1793, By which courts authorized to reinstate landholders, &c. by summary process, on proof of violent dispossession, *App.* p. 647——Regulation VI. 1813, Giving reference to arbitration of suits regarding title to and possession of land crops, &c. *App.* p. 652.

Necessity for the abolition of Regulation XV. of 1824, from its causing a system of oppression and chicanery; its inducements to infringe the peace by causing an affray or an indication thereof, and getting a case before a magistrate, where, though in the absence of possession for 50 years, a bribed report from a thannah, and a few tutored witnesses, will give a man a tolerable chance of ousting the rightful owner, who is taken off his guard, and destitute of his defences by a summary proceeding in a criminal court, *Leycester, App.* p. 456——Regulation XV. 1824, Vesting primary cognizance of disputes regarding possession of land, crops or water, in magistrates, *App.* p. 711.

See also *Summary Suits.*

Potails. See *Villages.*

Price of Blood. See *Compensation.*

Predatory Tribes. Where the inhabitants of a rugged and mountainous part of the country are hereditary plunderers, as great a proportion of them as is required should be employed in preserving the peace, it being only by giving them a stake in the general welfare, that

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that it can be hoped to make them converts to the cause of good order; advantage of such a plan over severity, which only succeeds for a time, causes distress and excites a spirit of revenge, *Malcolm, App.* p. 520, 521.

Pressing. Regulation III. 1820, prohibiting the pressing of inhabitants of towns or villages to carry baggage from stage to stage, and requiring magistrates to investigate complaints, and to punish persons convicted of the offence, *App.* p. 710.

Primogeniture. Law of primogeniture, if considered by Europeans a matter of importance, may be conceded, *Mill* 1061.
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Prisons. See *Gaols.*

Prisoners, Bengal. Statement of the number of prisoners in each of the zillah and city gaols on the 31st December 1828, and of the causes of their confinement; also a comparative statement of the number of prisoners within each division, on the 31st December 1827 and the 31st of December 1828, *App.* p. 580——Statement of the number of prisoners in the Lower Provinces employed in private labour, agreeably to the orders of the Nizamut Adawlut; showing the amount gained by their labour, and the proportion paid to the prisoners, *App.* p. 584.
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Private Tuition. Method thereof, and in what manner teachers remunerated, *Mackenzie,* 129–132, 135.

Privileged Persons. System of exemptions from the ordinary course of justice enjoyed by privileged persons at Bombay Presidency to be re-considered; lists to be revised and names of those having no pretensions to privilege to be struck out; new names not to be added without reference home, and every opportunity taken of reducing lists, *App.* p. 232. par. 50.
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Professorships. Advantage of the establishment of, in the Universities, for qualifying young men for judicial situations, *Johnston* 1128.

Promotion. No rule of, for judicial offices, *Clarke* 11–14, 36–41 ——Extent to which character entitles further advancement, *Clarke* 36, 37——Appointments to judicial offices not always by degrees, *Clarke* 38–41——Present rule of promotion in the revenue and judicial departments with salaries attached, and disadvantages of the present system, *Hamilton* 825–830.
See also *Zillah Judges.*

PROPERTY.

Papers laid before the Committee.

1. Relating to Bengal.
2. Relating to Madras.
3. Relating to Bombay.

1. Relating to Bengal.

Comparative statement of sentences for offences against property and against the person, and other crimes passed by the courts of circuit in Bengal, 1816–1826, *Bayley,* p. 98. *App.* p. 207, 208——Comparative statement of sentences for offences against property and against the person and other crimes, passed by the magistrates in the Lower and Western Provinces of Bengal, in 1826 and 1827, *Bayley,* p. 99. *App.* p. 207, 208——Statement of appeals, regular and special, depending and disposed of before the Sudder Dewanny Adawlut, in 1828, with the amount of the property in question, *App.* p. 548——Statement showing the total value or amount in sicca rupees of regular suits, whether original or in appeal depending in the several civil courts on 1st January 1829, *App.* p. 550, 551.

2. Relating to Madras.

Value of property litigated in courts, *App.* p. 225——Statement of the number of original suits, and of appeals depending at the beginning and end of 1815, and disposed of during that year, in each of the zillah and subordinate courts under the presidency of Madras; also the amount of property in litigation, *App.* p. 586——Statement to the same effect for the year 1828, *App.* p. 588——Statement of the amount of property in litigation, in the suits depending in the several zillah courts, on 1st January 1828 and 1st January 1829, and in the suits disposed of during that year, *App.* p. 591.

3. Relating to Bombay.

Statement of the number of original suits depending at the beginning and end of 1829, and instituted and disposed of during that year, in each of the zillah courts; showing by which of the functionaries they were disposed of, and the amount of property in litigation in them; also, the extent and population of the zillahs, *App.* p. 621.

Proprietors. See *Land. Zemindars.*

Prosecutors. Evils of the extent of their journeys, and necessity for avoiding their repetition, *App.* p. 221——Inconveniences of their journeys lessened by increased powers of magistrates, *App.* p. 272. par. 238.

Prostitution. See *Misdemeanors.*

PROVINCIAL COURTS.

I. *Generally.*
II. *Papers laid before the Committee.*
1. Relating to Bengal.
2. Relating to Madras.
3. Relating to Bombay.

I. *Generally.*

Functions of the provincial court, *Clarke* 34; *Mill* 1042——Capital cases must be confirmed by the Sudder Foujdarry Adawlut, before being carried into execution, *Clarke* 34——Provincial courts might be done away with, *Mackenzie* 150——Proposed abolition thereof, *Bayley* 882. p. 81. *App.* p. 452.

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I. *Bengal.*

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Objection to the establishment of a second court of Sudder Adawlut, from the impossibility to dissuade the people that there must be a court of last resort at the seat of Government; impossible that a sudder court in the interior can be looked up to with confidence

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Necessity for the establishment of a Sudder Dewanny and Nizamut Adawlut in the Upper Provinces, but it must not be purchased at the expense of the abolition of the provincial courts; heavy and oppressive nature of the present business of the sudder court, which difficulty the new court will have to contend with, *Sealey, App.* p. 484—— Presumed advantages from institution of a second Sudder Adawlut, are altogether imaginary; objections thereto, from the Sudder Adawlut having been the one supreme court of the country from the first, from its having been regarded by all classes as a tribunal of the last resort to which they might and did look with confidence, and from its being stationed at the presidency; court in the Upper Provinces will always be considered subordinate, and natives will not consider they have had the same justice they would have had at the presidency; popular feeling of the country decidedly against such a measure; statement of objections to the measure generally, *Rattray, App.* p. 487.

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Summary Suits. Summary process cannot be entirely dispensed with, but should be instituted before the collector instead of before the judge; they clog the files of the court, and increase the miscellaneous business, while, with the decision of them, the courts have nothing to do; smallness of the amount, and distance parties reside from the sudder station, occasion inconvenience to the agricultural community, and render it desirable that the means of adjusting revenue suits should be brought home to their own doors, *Bayley, App.* p. 452——Proposed plan respecting the hearing of summary suits; disadvantages of a summary suit open to regular suit, *Leycester, App.* p. 455——Necessity for the abolition of Regulation XV. 1824, as not answering its object, as spreading far and wide a system of oppression and chicanery never known before; it holds out inducements to infringe the peace, by its being only through an affray or indication thereof that a man can get his case before a magistrate, and although having no possession, a bribed report from a thannah and some tutored witnesses will give him a chance of ousting the rightful owner, who is taken off his guard, and destitute of defence, by a summary proceeding in a criminal court, *Leycester, App.* p. 456.

Collectors have never yet speedily decided summary suits for rent, nor are their courts peculiarly adapted for the cognizance of such suits; they are less so than the courts of the zillah judges, the uncertainty of their position rendering them more difficult of access to the parties between whom disputes about the rent arise; summary suits being often decided upon a hasty and imperfect inquiry, must often be wrong, and often made the instrument of oppression, and would not be necessary were the court of moonsiffs placed on a respectable footing; manner in which they would be sooner disposed of in the moonsiffs' courts, *Ross, App.* p. 460——Number of summary suits instituted in the Lower and Western Provinces of Bengal in the year 1828, *Ross, App.* p. 465——Observations as to whether summary suits might not be abolished, and all suits of that nature decided on a full investigation of their merits, open to one appeal of right, and another on good cause shown, provision being made for empowering courts, in any stage of the cause, to order summarily what may be necessary for securing the rights of parties, subject to the final award; general remarks upon the present system of summary suits, method of trial, and inconvenience parties subject to, *Turnbull, App.* p. 480.

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legal affairs, *App.* p. 655——Regulation XIII. 1829, Abolishing office of remembrancer of legal affairs, and establishing rules in force previous to the constitution of the office, *App.* p. 657.

Superintendant of Police. Office of, abolished, as no longer likely to be useful in a degree commensurate with the expense, *App.* p. 383. par 5——Office of superintendants to be abolished, and commissioners of revenue and circuit will, for their respective divisions, perform all the duties and exercise all the powers now belonging to the superintendants, with certain exceptions, *App.* p. 445——Evils of the powers vested in the commissioners of revenue and circuit, as superintendants of police, to commit for trial, and use authority of magistrates, in the former, contrary to express law, trying his own commitments, or some other officer must be appointed; and in the latter, removing the supervision and control deemed necessary safeguards for the people, *Leycester, App.* p. 457.

Evils of the abolition of the office of superintendant of police, particularly in the Lower Provinces; advantages of such an officer for the control of the police; manner in which he should be selected, and powers with which invested, *Blunt, App.* p. 500—— Proposed appointment of a superintendant of police in the Lower Provinces, *Blunt, App.* p. 510——Not necessary to revive the office of superintendant of police; local commissioners ought to superintend the police more efficiently than an officer exercising general control; the institution of a separate superintendant of police would place collectors and magistrates under two superiors; and evils thereof; state of the police has not deteriorated since the abolition of the office of superintendant, *Metcalfe, App.* p. 513, 515.

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I. *Generally.*

Proposed plan for a supreme court in the place of the King's court and of the Sudder Dewanny and Nizamut Adawlut *Mackenzie* 170–172——Opinion in favour of the abolition of supreme courts, and reasons, *Mill* 1035–1040——Suggestions for establishing a supreme court at each of the presidencies, *Johnston* 1118——Parts of India in which notice was attracted of disputes between Government and the judges at Bombay, *Hill* 361, 362——Feeling of the natives with regard to the supreme court, *Hill* 363, 364.

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Proposed appointment of tehsildars and subordinate officers of police and revenue; the office of police thanadars being discontinued in the Western Provinces, *Blunt, App.* p. 510; *Metcalfe, App.* p. 515.

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I. *Generally.*

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VILLAGES AND HEADS OF VILLAGES.

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2. Madras.
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1. Bengal.

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Their powers of authority, and punishment of the potails as heads of villages; authorized to decide without appeal, suits to the value of 10 rupees; are also empowered with a punchayet to decide any cases which both parties may be desirous of having so settled; number of potails, but very few of them act, *App.* p. 534.

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Wards, Court of. Accounts of all estates under the court of wards to be examined and audited by the local commissioners, they furnishing such statements in regard to them as may be required by the court, and remit through the Board all money belonging to wards that are invested in Company's paper by the Government agents, *App.* p. 388.

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II. *Papers laid before the Committee.*

I. *Generally.*

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